

Vol 1 of 2
E

COURT OF CRIMINAL APPEALS NO. 02-0634

APPEAL TO ALABAMA COURT OF CRIMINAL APPEALS

FROM

CIRCUIT COURT OF Montgomery COUNTY, ALABAMA

CIRCUIT COURT NO. CL-02-909

CIRCUIT JUDGE Truman Hebbes

Type of Conviction / Order Appealed From: Robbery I

Sentence Imposed: Life

Defendant Indigent: ☒ YES ☐ NO

Kourtney Sovereign Greenwood, AKA
Kourtney Greenwood
 NAME OF APPELLANT

Macco Kirkland 261-6200
 (Appellant's Attorney) (Telephone No.)

529 S. Perry St.
 (Address)
Montgomery, AL 36104
 (City) (State) (Zip Code)

V.

STATE OF ALABAMA

(State represented by Attorney General)
 NOTE: If municipal appeal, indicate above, and enter name and address of municipal attorney below.

NAME OF APPELLEE

FILED
 FEB 11 2003
 CLERK
 ALA COURT CRIMINAL APPEALS

(For Court of Criminal Appeals Use Only)

MAR 25 2003 SUBMITTED ON BRIEFS

AFFIRMED BY MEMORANDUM.
 ALL THE JUDGES CONCUR.

H. W. Miller, P.J.

JUN 6 2003

APPLICATION
 FOR REHEARING

APPLICATION FOR REHEARING
 OVERPRINED. NO OPINION
 ALL THE JUDGES CONCUR.

H. W. Miller, P.J.

PETITION FOR CERTIORARI
 DENIED BY
 ALABAMA SUPREME COURT

EXHIBIT
P
 PENGAD 800-631-6889

Court of Criminal Appeals

State of Alabama
Judicial Building, 300 Dexter Avenue
P. O. Box 301555
Montgomery, AL 36130-1555

MAY 23 2003

H.W."BUCKY" McMILLAN
Presiding Judge
SUE BELL COBB
PAMELA W. BASCHAB
GREG SHAW
A. KELLI WISE
Judges

Lane W. Mann
Clerk
Wanda K. Ivey
Assistant Clerk
(334) 242-4590
Fax (334) 242-4689

MEMORANDUM

CR-02-0634

Montgomery Circuit Court CC-02-909

Kourtney Sovern Greenwood v. State

McMILLAN, Presiding Judge.

The appellant appeals from his conviction for robbery in the first degree, a violation of § 13A-8-41, Ala. Code 1975. He was sentenced to life imprisonment, ordered to pay \$96 restitution, \$25 to the Victims Compensation Fund, attorneys' fees, half of all money he earns in the penitentiary, and assessed court costs.

The appellant argues that the trial court erred in denying his motion for a judgment of acquittal because the State presented insufficient evidence to sustain his conviction. Specifically, he argues that the robbery victim's identification of him as the second robber was inconsistent and, therefore, constituted unreliable witness identification.

The record indicates that the appellant's motion for a judgment of acquittal at trial was based upon a claim that the State failed to present any evidence that the second man present with Jamar Brown was actually participating in the robbery. Because the appellant's argument on appeal in support of his motion for a judgment of acquittal is different from the argument he presented to the trial court, his argument was not preserved for appellate review. Rogers v. State, 819 So. 2d 643 (Ala. Crim. App. 2001) (A statement of specific grounds of objection waives all grounds not specified, and the trial court will not be put in error on grounds not assigned at trial.)

The judgment of the trial court is affirmed.

AFFIRMED.

Cobb, Baschab, Shaw, and Wise, JJ., concur.

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ALABAMA JUDICIAL INFORMATION SYSTEM CASE: CC 2002 000909.0
 CR0372 CASE ACTION SUMMARY RUN DATE: 07/24/2002
 PER: DBH CIRCUIT CRIMINAL JUDGE: SMG
 AGE: 1

1E CIRCUIT COURT OF MONTGOMERY

STATE OF ALABAMA

VS

GREENWOOD KOURTNEY SOVERN
 103 COURTLAND DRIVE

ASE: CC 2002 000909.00

MONTGOMERY, AL 36105 0000

OB: 12/11/1979 SEX: M RACE: B HT: 5 11 WT: 135 HR: EYES:
 SN: 903070232 ALIAS NAMES: COURTNEY GREENWOOD KOURTNEE GREENWOOD
 CHARGE01: ROBBERY 1ST CODE01: ROB1 LIT: ROBBERY 1ST TYP: F #: 001
 OFFENSE DATE: AGENCY/OFFICER: 0030100

DATE WAR/CAP ISS:
 DATE INDICTED: 07/19/2002
 DATE RELEASED:
 BOND AMOUNT: \$30,000.00

DATE ARRESTED: 07/24/2002
 DATE FILED: 07/24/2002
 DATE HEARING:
 SURETIES:

DATE 1: DESC:
 DATE 2: 08/01/2002 DESC: ARRG

TIME: 0000
 TIME: 0830 A

TRACKING NOS: GJ 2002 070232 00 /

TYPE: A

TYPE:

DEF/ATY: *Hartley*

000000

00000

DC9V
0.28

PROSECUTOR:

JTH CSE: GJ200207023200 CHK/TICKET NO: UNKNOWN GRAND JURY: 232
 COURT REPORTER: SID NO: 001357047 OPER: DBH
 STATUS: JAIL DEMAND:

DATE	ACTIONS, JUDGEMENTS, AND NOTES
8-1-02	<i>W. Durant for Assignment</i> <i>W. Hartley appointed</i>
	DEFENDANT ARRAIGNED IN OPEN COURT, PLEADS NOT GUILTY.
	<i>yo out 9-5-02 @ 8:30</i> <i>SMG</i>
9-5-02	<i>A denied yo - not eligible, set for</i> <i>trial SMG</i>
9/23/02	<i>Notice of Discovery</i>
10-18-02	<i>Motion by State to Consolidate</i> <i>with 02-905 - Lamar Brown granted.</i> <i>A present for pretrial</i> <i>SMG</i>

ACR0369 ALABAMA JUDICIAL INFORMATION CENTER

CASE ACTION SUMMARY
CONTINUATIONCASE: CC 2002 000909.00
JUDGE ID: SMG

STATE OF ALABAMA VS GREENWOOD KOURTNEY SOVERN

DATE ACTION, JUDGMENTS, CASE NOTES

10-30-02

MISTRIAL GRANTED

after a jury was sworn in and heard testimony taken SMG
Circuit Judge

12-11-02

JUDGEMENT IS HEREBY ENTERED
IN ACCORDANCE WITH THE
VERDICT OF THE JURY.guilty of Robbery!
Sentencing 12-30-02
SMG
Circuit Judge

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State of Alabama Unified Judicial System Form C-7 Rev 2/79	CASE ACTION SUMMARY CONTINUATION	Case Number <u>CC 02-0909 GR</u>
--	---	-------------------------------------

Style: Kourney Lee

Page Number _____ of _____ Pages

DATE	ACTIONS, JUDGMENTS, CASE NOTES
<u>12-30-02</u>	Defendant & attorney appeared for sentencing. Court asked if he/she had anything to say why sentence should not now be pronounced and Defendant had his/her say.
<u>Dec 31-03</u>	HOA Enhancements Applicable <u>Yes/No</u> Defendant Admits _____ State Proves <u>2</u> priors
<u>1-1-04</u>	IT IS ORDERED: Sentenced to <u>Life</u> yrs./split to serve _____ yrs. _____ reverse split postpone _____ Review _____ Concurrent _____ Consecutive _____
	Suspended <u>YES/NO</u> Supervised/P.O/Court Probation _____ Level II _____ years End of Split Sentence _____ years _____ DOC to give 60 day notice prior to E.O.S.
<u>CONF</u>	ENHANCEMENTS \$1000/2000 Enhancement Fine _____ Remit portion completion of SAP _____ Driver License suspended/revoked 6 mo/_____ _____ \$100 DFS fee _____ \$100 Head Injury _____ years School _____ years Public Housing _____ years Sale under 18
	Boot Camp _____ SAP _____ Review upon completion-YES _____ GED _____ Work Release _____ Community Service _____ hrs. Trash Pickup _____ hr OTHER:
	Restitution \$ <u>96.00</u> Co-Defendant(s) _____ Jointly and Severally liable Crime Victim \$25.00/(\$50.00) _____ Court Costs _____ Attorney Fees \$150.00/ ✓ Fine \$ _____ Payment \$ _____ Mo/Week Begin _____/02 or 1/2 monies earned ✓
	Defendant advised right to appeal yes/no unless reserve issue or withdraw plea; Defendant to be given credit for time served. Appeal Bond set \$ _____
	<u>SME</u> SALLY GREENHAW CIRCUIT JUDGE
	Oral Notice of Appeal given <u>SME</u>

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ACRO369 ALABAMA JUDICIAL INFORMATION CENTER

CASE ACTION SUMMARY
CONTINUATIONCASE: CC 2002 000909.00
JUDGE ID: SMG

STATE OF ALABAMA

VS

GREENWOOD KOURTNEY SOVERN

DATE

ACTION, JUDGMENTS, CASE NOTES

1-3-03 Certificate of Appeal to Court of Criminal Appeals
AG, DA, Attorney (w/forms) and Court Reporters'
(Should not have been done until sentencing
was put in computer. Issued In Error)

1-8-03 Corrected Certificate of Appeal to Court of Criminal
Appeals, AG, DA, Attorney (w/forms) & Court Reporters

1-29-03 Forms Filed

2-6-03 Forms Filed

150c 02 909

SMG 05-2005

GJ NO. 0232

THE STATE OF ALABAMA

Kourthey Sovell Greenwood
B/M HT: 5'11 WT: 135 DOB: 12/11/79

103 Courtland Dr.

SID. NO. 01357047 ARREST DATE

FOR

Robbery 1

A TRUE BILL

Sheldon D. ...
Foreperson of Grand Jury

No Prosecutor

BAIL IN THIS CASE IS FIXED AT

\$ 30,000

Sheldon D. ...
Judge of Circuit Court of Montgomery County

CC NO.

SEBR, 101 Perkins

Presented in open Court by the Foreperson of

the Montgomery County Grand Jury in the pres-

ence of 14 other members of

the Grand Jury and filed this 14th day of

July, 02.

Magdalen B. ...

Clerk of the Circuit Court of Montgomery County

WITNESSES

N.T. Buce
Wk:MPD

Larry Copeland, Jr.
3380-F McGehee Rd

6

THE STATE OF ALABAMA
MONTGOMERY COUNTY


Circuit Court of Montgomery County, _____ JULY _____ Term, A.D. 2002

The Grand Jury of said County charge that, before the finding of this indictment,

KOURTNEY SOVERN GREENWOOD, alias
KOURTNEE S. GREENWOOD, alias
KOURTNEE SOVENS GREENWOOD, alias
COURTNEY S. GREENWOOD, alias
K.S. GREENWOOD, alias
KOURTNEY S. GREENWOOD, alias
KOURTNEE SOVERN GREENWOOD, alias
KOURTNEE SOVENSKY GREENWOOD, alias
COURTNEY SOVENSKY GREENWOOD, alias
COURNEY GREENWOOD,

whose name is otherwise unknown to the Grand Jury, did, in the course of committing a theft of lawful currency and/or coinage of the United States of America, of some value, a better description of which is unknown to the Grand Jury, use force against the person of the owner or any person present, Larry Copeland, Jr., with intent to overcome his physical resistance or physical power of resistance, or threaten the imminent use of force against the person of the owner or any person present, Larry Copeland, Jr., with intent to compel acquiescence to the taking of or escaping with the property, while the said Kourtney Sovern Greenwood, alias was armed with a deadly weapon or dangerous instrument, a gun, a better description of which is unknown to the Grand Jury, in violation of Section 13A-8-41 of the Code of Alabama,

against the peace and dignity of the State of Alabama.


District Attorney, Fifteenth Judicial Circuit of Alabama

IN THE CIRCUIT COURT FOR THE FIFTEENTH JUDICIAL CIRCUIT
MONTGOMERY COUNTY, ALABAMA

STATE OF ALABAMA
Plaintiff,

v. Kourtney S. Greenwood
Defendant

CC No. 02-909 -SMG

NOTICE OF DISCOVERY

COMES NOW the State of Alabama by and through its District Attorney for the Fifteenth Judicial Circuit, Eleanor I. Brooks, and gives notice of discovery to the defendant, notice of intent to use prior convictions, notice of intent to invoke sentencing enhancements, notice of intent to offer proof by a certificate of analysis, and motion for discovery by the State:

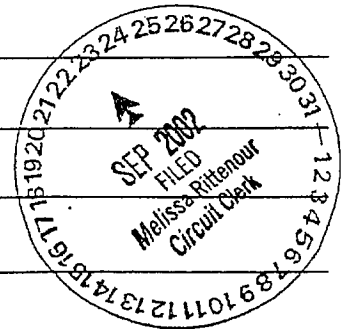
() 1. Pursuant to Rule 16.1, A.R.Cr.P., and as otherwise required by law, all available discovery has been provided or made available to the Defendant. Arrangements to inspect physical evidence may be made by contacting the undersigned.

The State of Alabama has furnished a copy of the discovery by sequentially Bates numbered pages from 000001 thru 0000 102. (Pages 3, 100 have not been provided as they are either work product and/or NCIC, which cannot be provided pursuant to state law, unless ordered by the Court). The State of Alabama considers this discovery material to have been received in its entirety by Defense Counsel unless promptly notified in writing of any discrepancies.

(✓) 2. The State of Alabama intends to use at trial any and all prior convictions, crimes, wrongs, or acts of the Defendant permitted by Rules 404(b) and 609 of the Alabama Rules of Evidence, and as otherwise allowed by law. The State of Alabama is presently aware of, and intends to use, the following:

Robbery I - 94-1286 SMG

POM I - 99-0453



☒ 3. The State of Alabama intends to invoke all sentencing enhancements required or permitted by law, including the Habitual Felony Offender Act, pursuant to §13A-59-9, Code of Alabama, 1975, based on any applicable felony convictions known or any which may subsequently be discovered and/or disclosed. And, if applicable, the following:

☒ Enhancement for use of firearm or deadly weapon. Minimum term of imprisonment of 20 years.

☐ Five Year enhancement for Sale of Drugs within three (3) miles of a school, §13A-12-250.

☐ Five Year Enhancement for Sale of Drugs within three (3) miles of housing project, §13A-12-281.

☐ \$1,000.00 Fine, §13A-12-281.

☐ \$2,000.00 Fine, §13A-12-281.

☐ Suspension of Driver's License, §13A-12-290.

☐ Five Year Enhancement for Possession of Firearm, §13A-12-231(13).

☐ 4. Pursuant to §§ 12-21-300 through 303, Code of Alabama, 1975, written notice is hereby given of the State's intent to offer proof by a certificate of analysis in lieu of direct testimony. The certificate of analysis is from the Alabama Department of Forensic Sciences and a copy is included in the discovery material.

☒ 5. Pursuant to Rules 16.2 and 16.4(c), A.R.Cr.P., and as otherwise required by law, the Defendant is to provide the State of Alabama, within seven (7) days, a copy of all discovery to which it is entitled.

Respectfully submitted this 20th day of September, 2002.

ELEANOR I. BROOKS
DISTRICT ATTORNEY

By: Vernetta R. Perkins
Vernetta R. Perkins (PER067)
Deputy District Attorney

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon the Attorney for the Defendant, Wiley Martley by hand delivery or by placing same in the appropriate Courthouse Box, or by posting in the United States mail, postage prepaid and properly addressed, on the 20th day of September, 2002.

ELEANOR I. BROOKS
DISTRICT ATTORNEY

By: Vernetta R. Perkins
Vernetta R. Perkins (PER067)
Deputy District Attorney

IN THE CIRCUIT COURT FOR THE FIFTEENTH JUDICIAL CIRCUIT
MONTGOMERY, ALABAMA

STATE OF ALABAMA,)	
Plaintiff,)	
)	
V.)	
)	
KOURTNEY S. GREENWOOD,)	CC No. 02-0909-SMG
JAMAR BROWN,)	CC No. 02-0905-SMG
Defendants,)	

MOTION FOR CONSOLIDATION OF DEFENDANTS AND CASES

COMES NOW the State of Alabama, by and through its District Attorney for the Fifteenth Judicial Circuit, Eleanor I. Brooks, and, pursuant to Rule 13.3 of the Alabama Rules of Criminal Procedure, moves this Honorable Court to consolidate the above-styled cases for trial on the ground that each of the above-named Defendants has been charged in separate indictments alleging participation in offenses that are the same act or transaction, or are a part of a common conspiracy, scheme, or plan, or are otherwise so closely connected that it would be difficult to separate the proof of one from proof of the other.

Therefore, the State of Alabama moves for consolidation and requests a hearing on this Motion, to be set not later than seven (7) days prior to trial.

Respectfully submitted this 18th day of October, 2002.

ELEANOR I. BROOKS
DISTRICT ATTORNEY
By: Vernetta Perkins
Vernetta Perkins
Deputy District Attorney

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion was served upon the Honorable Wiley Hartley, and Winston Durant, by hand delivery or by placing a copy thereof in the United States mail, postage prepaid and properly addressed on this 18th day of October, 2002.

ELEANOR I. BROOKS
DISTRICT ATTORNEY

By: Vernetta Perkins
Vernetta Perkins
Deputy District Attorney

IN THE CIRCUIT COURT FOR THE FIFTEENTH JUDICIAL CIRCUIT
MONTGOMERY COUNTY, ALABAMA

STATE OF ALABAMA,
Plaintiff,

KOURTNEY S. GREENWOOD,
JAMAR BROWN,
Defendants,

CC No. 02-0909-SMG
CC No. 02-0905-SMG

ORDER FOR CONSOLIDATION OF DEFENDANTS AND CASES

Upon consideration of the Motion for Consolidation of defendants and Cases, and for good cause, it is hereby ORDERED that the above-styled cases are consolidated.

Done this 10 day of October, 2002.

Sally Izenhar
CIRCUIT JUDGE

Hon. Wiley Hartley, Defense Attorney
Hon. Winston Durant, Defense Attorney
Hon. Vernetta Perkins, Deputy District Attorney

12

JUDGE:

COURT REPORTER:

PANELS

DATE:

~~Kennedy~~ Greenwood
Newman
15-20
10-29-02

CASE 02 909

CHARGE:

State

VS

County Greenwood

ATTY:

ATTY:

	PLANTIFF	DEFENDANT			
1	309	313			
2	435	340			
3	441	382			
4	371	416			
5	374	327			
6	439	356			
7	411	451			
8					
9					
10					
11					
12					
13					
14					
15					

No. Jur. No. Stk.

12	0
14	1
16	2
18	3
20	4
22	5
24	6
26	7
28	8
30	9
32	10
34	11
36	12
38	13
40	14
42	15

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State of Alabama
Unified Judicial System

JURY VERDICT

Case Number
CC-02-909 GR

Form C-50 Rev 6/88

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, ALABAMA

Plaintiff: State of Alabama v. Defendant: KOURTNEY GREENWOOD



We the Jury find the Defendant GUILTY of Robbery
in the First Degree as charged in the indictment.

OR

We the Jury find the Defendant NOT GUILTY.

12-11-02

JUDGEMENT IS HEREBY ENTERED
IN ACCORDANCE WITH THE
VERDICT OF THE JURY.

Sally Greenhaw
Circuit Judge

Jennifer Wyatt

Name of Foreperson (please print)

Jennifer Wyatt
Signature of Foreperson

Date filed 12-11-02

RECEIVED

12-16-08

CIRCUIT CLERK

Case Number

State of Alabama
Unified Judicial SystemCASE ACTION SUMMARY
CONTINUATIONCC 94-1286
10 YR Number

Form C-7 Rev. 2/79

Title:

Page Number ____ of ____ Pages

DATE

ROURINEE SOVERN GREENWOOD
ACTIONS, JUDGMENTS, CASE NOTES

October 13, 1994

The Defendant appears in Court with his attorney of record for sentencing. The Court, having asked the Defendant if he had anything to say as to why the sentence of law should not now be pronounced upon him, and having had his say, the Court sentences the Defendant to fifteen (15) years in the penitentiary.

The Defendant is to successfully complete up to 180 days Disciplinary Rehabilitation Program pursuant to the Act 88-163. When program is successfully completed, Defendant is to be returned to the Court for review. Upon motion of the State with concurrence of the Defendant, the Court retains jurisdiction and reconsideration of this sentence and of V.O.A. if and or when the Defendant successfully completes the 180 Day Disciplinary Rehabilitation Program.

October 13, 1994

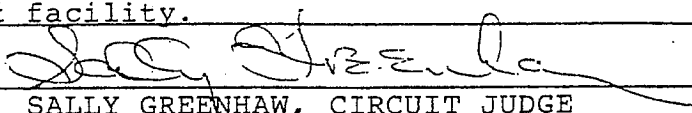
Court orders the Defendant to pay attorney's fees of \$150.00, court costs, and \$50.00 to the Victims Compensation Fund. Restitution is to be set at a restitution hearing. These court ordered payments are to be collected by the Department of Corrections from any funds to which the Defendant becomes entitled while in the penitentiary, whether such funds are to his credit in a welfare fund, inmate fund or in any other source whatsoever. An amount equal to one-half of the gross amount of such funds shall be collected by the Department of Corrections and shall be forwarded to the Circuit Clerk of this Court monthly to be disbursed by the Clerk according to law.

Returned to the Court for review on 11-29-94. The Court with concurrence of the Defendant, the Court retains jurisdiction and reconsideration of this sentence and of V.O.A. if and or when the Defendant successfully completes the 180 Day Disciplinary Rehabilitation Program.

JOSEPH D. PHELPS, CIRCUIT JUDGE

11-29-94 Probation Office to see if Def. can be sent to Frank Lee, rest for 12-6-94.

Court orders the Defendant to pay attorney's fees of \$150.00, court costs, and \$50.00 to the Victims Compensation Fund. Restitution is to be set at a restitution hearing. These court ordered payments are to be collected by the Department of Corrections from any funds to which the Defendant becomes entitled while in the penitentiary, whether such funds are to his credit in a welfare fund, inmate fund or in any other source whatsoever. An amount equal to one-half of the gross amount of such funds shall be collected by the Department of Corrections and shall be forwarded to the Circuit Clerk of this Court monthly to be disbursed by the Clerk according to law.

State of Alabama Unified Judicial System Form C-7 Rev. 2/79	CASE ACTION SUMMARY CONTINUATION	Case Number <div style="text-align: right; font-family: monospace;">CC 94 1286 ID YR Number</div>
Style: <u>Kourtney Greenwood</u>		Page Number <u> </u> of <u> </u> Pages
DATE	ACTIONS, JUDGMENTS, CASE NOTES	
3/13/95 <div style="position: absolute; left: -40px; top: 0; transform: rotate(-90deg); font-family: monospace; font-size: 0.8em;">Rec'd 3-14-95</div>	<div>Defendant with attorney appeared for Review and reconsideration of sentence. Sentence is ORDERED amended as follows:</div> <div style="margin-left: 20px;"><div>1. 15 years split, to serve 2 years at Frank Lee Juvenile Facility with credit for time served.</div><div>2. Defendant shall be enrolled in a full time regular school curriculum at Frank Lee Juvenile Facility.</div><div>3. Court reserves jurisdiction for YOA determination.</div><div>4. Defendant will be placed on 3 years supervised probation following release from that facility.</div></div> <div style="text-align: right; margin-top: 20px;"> SALLY GREENHAW, CIRCUIT JUDGE</div>	
	/	

State of Alabama
Supreme Court
Dept. of Court Mgmt.

Form SC-C-7 11-77

CASE ACTION SUMMARY
CONTINUATION

Case Number

CC 74-128
10 YR Number

Kourtnee Greenwood

Page Number

DATE

ACTIONS

10-3-96

As probation reinstated. Payment of
✓ Court ordered monies to begin in
December at \$20.00/month. Review set
for 3-6-97, 8:15 for increase payment. EM

State of Alabama
 Supreme Court
 Dept. of Court Mgmt.

CASE ACTION SUMMARY CONTINUATION

Case Number

CC 94-1286
 ID YR Number

2-7-11-77

Kountree Greenwood

Page Number

DATE

ACTIONS

2-6-97 Delinquency report filed by P.O. Officer and based on testimony of P.O. Officer *More* Defendant declared delinquent and ARREST ORDERED for:

- ☒ 1. Failure to report
- ☒ 2. Failure to pay court order monies
- ☒ 3. Failure to pay supervision fees
- ☐ 4. Arrested on new charges
- ☐ 5. Failure to avoid injurious habits
- ☐ 6.
- ☐ 7.
- ☐ 8.

SMG

2-10-97 *Copias issued*

7-23-97 *Copias executed; file sent to Golze.*

CASE ACTION SUMMA...
CONTINUATION

Case No. **20**

CC **99-126**
ID TR Number

Kountree, Greenwood

Page Number

DATE

ACTIONS

7-25-97

Delinquency report filed by P.O. Officer and based on testimony of P.O. Officer Defendant declared delinquent and **ARREST ORDERED** for:

- ☒ 1. Failure to report
- ☒ 2. Failure to pay court order monies
- ☒ 3. Failure to pay supervision fees
- ☒ 4. Arrested on new charges
- ☒ 5. Failure to avoid injurious habits
- ☒ 6
- ☒ 7. FTA
- ☒ 8

Defendant appeared with attorney and was orally informed of the delinquency charges and also provided with a written statement of the charges, the disclosure of the evidence, the opportunity to be heard, to present witnesses and documentary evidence, to confront and cross-examine witnesses. Defendant **ADMITTED** charges, or Defendant **DENIED** charges and a revocation hearing is set for **7-31-97**

Eric
JUDGE SALLY GREENHAW

State of Alabama Unified Judicial System rm C-7 Rev 2/79	CASE ACTION SUMMARY CONTINUATION	Case Number 94-1286
Style: <u>Kourtnee Greenwood</u>		
Page Number _____ of _____ Pages		
DATE	ACTIONS, JUDGMENTS, CASE NOTES	
7-31-97	<p>Defendant appeared with Wiley Hartley for a revocation hearing. Probation Officer Moore testified that Defendant was placed on probation 10/3/96 and told to report monthly. She stated he had failed to report to the probation office from March 1997 through August, 1997 even after several home visits were done in an attempt to bring Defendant back under supervision. Defendant denied the charges and testified he was not told to report. Officer Moore presented to the Court the instructions for probation signed by the Defendant on the date he was placed on probation stating he understood the conditions of probation.</p> <p>Upon consideration of the evidence presented by the State and testimony of Probation Officer Moore finds Defendant did violate the conditions of his probation for failure to report.</p> <p>Wherefore, it is ORDERED that Defendant's probation and split sentence be revoked and his 15 year sentence be invoked for failure to report to the probation officer.</p>	
	<p style="text-align: center;">SMB SALLY GREENHAW CIRCUIT JUDGE</p>	
8-19-97	Motion to Reconsider Revocation of Probation	
9-2-97	Motion to reconsider probation revocation re set 9-4-97 at 8:15 <p style="text-align: center;">Sally Greenhaw</p>	
9-4-97	Motion to Reconsider probation Revocation was heard this date and testimony taken. Defendant continues to deny he was told to report. It is Ordered that Defendant's probation and split sentence be revoked and his 15 year sentence be invoked for failure to report. To be reviewed prior to E.O.S. - place hold. SMB	

Case Number 100-1000000000

94-1286

Page Number of Pages

DATE	ACTIONS, JUDGMENTS, CASE NOTES
9-16-97	<p>Defendant and Counsel appeared for Review with the State and Officer Moore present. Defendant testified he would obey the orders of the Court and Probation Officer if given one more opportunity on probation. Ordered:</p> <ol style="list-style-type: none"> 1.) Defendant shall comply with all Court Orders and instruction from Probation Officer Moore. 2.) Failure to comply + Defendant probation shall be revoked. 3.) Sentence suspended and placed on supervised probation the first portion of which will be served on Level I Monitor. 4.) Supervised probation extended 2 years. <p>Sally Greenlaw</p>
1-23-98	Probation Release to DOC

Kourtnee Greenwood

Page Number _____

DATE	ACTIONS
11-24-97	Delinquency report filed by P.O. Officer and based on testimony of P.O. Officer Moncrief Defendant declared delinquent and ARREST ORDERED for:
	1. Failure to report
	2. Failure to pay court order monies
	3. Failure to pay supervision fees
	X 4. Arrested on new charges menacing
	5. Failure to avoid injurious habits
	6.
	7.
	8. (A in City Jail) place a hold
	SMG
	Defendant appeared with attorney and was orally informed of the delinquency charges and also provided with a written statement of the charges, the disclosure of the evidence, the opportunity to be heard, to present witnesses and documentary evidence, to confront and cross-examine witnesses. Defendant ADMITTED charges, or Defendant DENIED charges and a revocation hearing is set for .
	JUDGE SALLY GREENHAW
12-2-97	Copies Issued
3-07-98	Copies executed; file sent to Judge.
3-16-98	Probation reinstated (P.O. Moore). SMG

24✓

ALABAMA JUDICIAL INFORMATION SYSTEM CASE: CC 99 000453.00
 CASE ACTION SUMMARY
 CIRCUIT CRIMINAL RUN DATE: 03/10/99
 THE CIRCUIT COURT OF MONTGOMERY JUDGE: SMG

STATE OF ALABAMA VS GREENWOOD COURTNEY
 552 N UNION CIRCLE
 MONTGOMERY, AL 36104 0000

DOB: 12-11-79 SEX: M RACE: B HT: 5 06 WT: 140 HR: BLK EYES: BRO
 SSN: 417680527 ALIAS NAMES:
 CHARGE1: POSS MARIJUANA 1ST CODE1: VAPE LIT: POSS MARIJUANA TYP: F
 MORE1: OFFENSE DATE: 10/27/98 AGENCY/OFFICER: MPD LOTFON

DATE WAR/CAP ISS: DATE ARRESTED: 10/27/98
 DATE INDICTED: 03/05/99 DATE FILED: 03/09/99
 DATE RELEASED: 11/09/98 DATE HEARING:
 BOND AMOUNT: \$1,000.00 SURETIES: ~~BIG LADY'S~~

DATE 1: DESC: TIME: 0000
 DATE 2: 03/18/99 DESC: ATTY TIME: 1000 A

DEF/ATY: HARTLEY, JOHN W, JR
 PROSECUTOR: DUKES, STEPHEN MARK

TYPE: A

OTH CSE: 9800626400 CHK/TICKET NO: GRAND JURY: 236
 COURT REPORTER: SID NO:
 DEF STATUS: BOND DEMAND: OPER: REF

TRANS DATE	ACTIONS, JUDGEMENTS, AND NOTES	OPER
03/10/1999	FILED THIS DATE: 03/09/99	REF
03/10/1999	CHARGE AT FILING OF: POSS MARIJUANA 1ST	REF
03/10/1999	DEFENDANT INDICTED ON: 03/05/99	REF
03/10/1999	BOND SET FOR: \$1000.00	REF
03/10/1999	DEFENDANT ARRESTED ON: 10/27/98	REF
03/10/1999	ATTORNEY FOR DEFENDANT: HARTLEY, JOHN W, JR	REF
03/10/1999	OFFENSE DATE OF: 10/27/98	REF
03/10/1999	DEFENDANT RELEASED ON: 11/09/98	REF
03/10/1999	SET FOR: ATTY APPOINTMENT ON 03/18/99 AT 1000A	REF

4-7-99

Notice of Discovery to Atty. etc

5-24-99

A appeared

5-25-99

A appeared, set for 40A 6-3-99

5-28-99

Bondsman Process issued to Big Lady's

6-3-99

The Court having examined the defendant and
 considered the report of investigation of the
 defendant as required by Ala. Code §15-19-1
 (1975) it is ORDERED that the defendant's
 request to be tried as a youthful offender
 is conditionally denied

SALLY GREENHAW, CIRCUIT JUDGE

RECEIVED

6-21-99

Bondsman's Process Served (Big Lady)

1-2-03

DIAPHRAGM ALKAL

State of Alabama
Unified Judicial SystemCASE ACTION SUMMARY
CONTINUATION

Case Number

CC 44-453 GR

1C-7

Rev 2/79

Style:

State v

County Greenwood

Page Number

of

Pages

DATE

ACTIONS, JUDGMENTS, CASE NOTES

7-8-99

A FTA pretrial

7-12-99

DEFENDANT FTA FOR Trial
W & F ISSUE W.O.A.Colly, Greenlaw

7-15-99

Capias issued

8-9-99

Capias executed, file to the judge (8-10)

8-12-99

A appeared F+C set aside smg

Case Number
CC-91-459 GR

Page Number of Pages

ACTIONS, JUDGMENTS, CASE NOTES

SALLY GREENLAW, CIRCUIT JUDGE

of P.O.M 1st (SMB)
Count 1
elements given 1 per

27

State of Alabama
Unified Judicial SystemCASE ACTION SUMMARY
CONTINUATION

Case Number

cc 99-453 GR

F C-7 Rev 2/79

Style:

State v

Ramirez, Ismael

Page Number

of

Pages

DATE

ACTIONS, JUDGMENTS, CASE NOTES

8/16/99

Defendant & attorney appeared for sentencing.
Court asked if he/she had anything to say why
sentence should not now be pronounced and
Defendant having his/her say, it is ORDERED:

HOA Enhancements Applicable Yes/No
Defendant Admits _____ State Proves _____ Priors _____

Sentenced to 10 yrs./split to serve 3 yrs.
☒ reverse split postpone 1 yr review Aug 14, 2000
Concurrent _____ Consecutive _____

SUSPENDED YES/NO SUPERVISED/COURT PROBATION
3 years LEVEL II ☒ Monitor _____
first 30 days

ENHANCEMENTS - Weapons _____ years
Drug - _____ years School/Public Housing
_____ years Sale under 18

\$1000/2000 Fine

☒ Remit portion completion SAP
☒ Driver License suspended 6 mo.

GED _____ BootCamp _____ /SAP X /Chain Gang _____
Work Release _____ Frank Lee _____ /Employment _____
Community Service _____ hrs. at _____ /PO Select _____
Review upon completion - Yes _____

Other - _____

Restitution \$ _____ Fine \$ _____
Crime Victim \$25.00/\$50.00/\$ _____ Ct. Costs ☒
Attorneys Fees \$150.00 /Attorney/GAL Fees _____
Payment \$ 50 Mo/Wk Begin 10/1 /99 OR _____
1/2 monies earned _____ Review _____

Defendant advised rt. appeal, credit time served
Appeal Bd. set \$ _____ JUDGE SALLY GREENHAW
Sally Greenhaw

U.S. District Court
District of Columbia
U.S. District Court
-S.C. 7/11/77

SE ACTION SUMMARY
CONTINUATION

Case Number **28**
CC 99-453
10 11 12

Roxanne Greenwood

Page Number _____

DATE _____ ACTIONS _____

2-27-99 Delinquency report filed by P.O. Officer and based on testimony of P.O. Officer _____ Defendant declared delinquent and ARREST ORDERED for:

- 1. Failure to report
- 2. Failure to pay court order monies
- 3. Failure to pay supervision fees
- 4. Arrested on new charges
- 5. Failure to avoid injurious habits
- 6. Complete S.A.P.
- 7. _____
- 8. _____

W. Hartley

Defendant appeared with attorney and was orally informed of the delinquency charges and also provided with a written statement of the charges, the disclosure of the evidence, the opportunity to be heard, to present witnesses and documentary evidence, to confront and cross-examine witnesses. Defendant ADMITTED charges, or Defendant DENIED K charges and a revocation hearing is set for 1-10-00.

SMG

-10-00 Revocation continued to 1-20-00 at 7:30 AM

SMG

-20-00 Continued to 1-24-00

SMG

-24-00 A appeared; Mr Davis from CAPs FTA. On recommendation of P.O. and no objection from the State A is ordered on Work Release beginning 1-25-00 from 7am-6pm M-F. A shall remain delinquent pending hearing on 2-14-00 @ 8am SMG

orm C-7

Rev 2/79

Case Number

CC 99-453 GR

State v

Page Number of Pages

ACTIONS, JUDGMENTS, CASE NOTES

2-14-00

Defendant requested a hearing, the parties were sworn in and P. O. McCarty testified Defendant was instructed on all rules and regulations of probation. McCarthy stated, by letter to her, Defendant was terminated from CAP for failure to attend the program. Witness Steve Davis from CAP testified Def. had been given several opportunities to enroll or re-enroll and had failed to do so. He also stated he did not know if CAP would be willing to reconsider him for the program again.

Ms. LaVon Howard (Defendant's fiancée) testified both the baby and Defendant had been in the hospital but that her Mother would be supervising Defendant at Captain D's if he were released.

Defendant shall remain in delinquent status pending further hearing on 2/22/00 at 8:00 am.

SMC

SALLY GREENHAW, CIRCUIT JUDGE

2-22-00

1. Defendant's probation is reinstated, the first 90 days on Level 2.

2. Defendant shall enroll in CAP or an alternative program which Ms. McCarty is to approve.

3. This is Defendant's last opportunity to comply.

Smile

SALLY GREENHAW, CIRCUIT JUDGE

[illegible]

State of Alabama Unified Judicial System		CASE ACTION SUMMARY		Case Number
Form C-7 Rev 2/79		CONTINUATION		cc <u>09-453</u> GR
Style: State v <u>Kourtnee Greenwood</u>		Page Number <u> </u> of <u> </u> Pages		
DATE	ACTIONS, JUDGMENTS, CASE NOTES			
7/17/00	<p>Defendant Greenwood appeared with Wiley Hartley and was orally informed of the delinquency charge for failure to report. The Court also finds the Defendant has a new Assault 1 charge, has paid nothing on his COMs and did not enroll in CAP. Defendant was provided with a written statement of the charges, the disclosure of the evidence, the opportunity to be heard, to present witnesses, documentary evidence, and to confront and cross examine witnesses. Defendant requested a hearing, the parties were sworn in and P. O. Mills testified Defendant was instructed on all rules and regulations of probation on 2/22/00 when he was placed on Level II probation. Mills stated Defendant has not reported since he was placed on probation; has failed to make any payments toward his COMs; was arrested on a new charge of Assault 1 and failed to enroll in CAP. P. O. Mills recommends Defendant's probation be revoked and his sentence imposed.</p> <p>Defendant testified he didn't report because he had a conflict with P. O. Mills.</p> <p>Upon consideration of the evidence presented by the State, and testimony of P. O. Mills the Court finds Defendant did violate the conditions of his probation for failure to report.</p> <p>Wherefore, it is ORDERED that Defendant's probation is revoked and his split sentence is imposed for failure to report. It is further ORDERED Defendant complete a SAP while at DOC.</p> <p>Defendant advised of his right to appeal.</p> <p style="text-align: center;"><i>Sally Greenhaw</i> SALLY GREENHAW, CIRCUIT JUDGE</p>			
8-31-00	<p>Oral Motion to Reconsider</p> <p>Probation is denied; Defendant has had constant problems while on probation.</p> <p style="text-align: center;">SMC</p>			
7/13/00	(Letter) Defendant's Motion for Review			
9-13-00	Order Denying Review			
11/13/00	Motion to Compel Disclosure Motion to Produce			

CC 99-453

Rev 2/79

State v/s Courtney Greenwood

Page Number of Pages

[illegible]

State of Alabama Unified Judicial System		CASE ACTION SUMMARY CONTINUATION		Case Number CC <u>99-453</u> GR
Form C-7	Rev 2/79			
Style: State v <u>Kourtnee Greenwood</u> Page Number _____ of _____ Pages				
DATE	ACTIONS, JUDGMENTS, CASE NOTES			
9-10-01	<p>Defendant appeared with Wiley Hartley for DOC sentence review. The Court is mindful that Defendant has had a history of chemical addictions and Defendant is advised that this is his FINAL CHANCE to comply with the Court's Orders. The matters having been considered it is ORDERED:</p> <p>1. That Defendant's sentence is suspended and his supervised probation is reinstated and he shall be placed on Level I monitor probation for the first 90 days. Defendant is to report to Probation Officer McCarty upon release from MCDF.</p> <p>2. That Defendant shall pay \$40.00 per month toward his COMs beginning 11-1-01.</p> <p style="text-align: center;">SMG</p> <p style="text-align: center;">SALLY GREENHAW, CIRCUIT JUDGE</p>			
9-12-01	Probation Release to DOC			
8-1-02	<p>A declared delinquent for having been arrested on new charge of Robbery (02-909). A shall remain in delinquent status pending outcome of new charge.</p> <p style="text-align: center;">SMG</p>			

STATE OF ALABAMA
MONTGOMERY COUNTY

I, Melissa Rittenour, Clerk of the Circuit
Court of Montgomery County, hereby certify
that the within is a true and correct copy of
the Case Action Summary
on file in said office.

Witness my hand and the seal of said
Court is hereto affixed, this the 30th
day of Dec, 20 02

Melissa Rittenour
Clerk Circuit Court

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ACR371

ALABAMA JUDICIAL DATA CENTER

NOTICE OF APPEAL TO THE ALABAMA COURT OF CRIMINAL APPEALS

BY THE TRIAL COURT CLERK

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY

STATE OF ALABAMA VS GREENWOOD KOURTNEY SOVERN JUDGE: SARAH M. GREENHAW

APPEAL DATE: 12/30/2002

INDIGENCY STATUS:

GRANTED INDIGENCY STATUS AT TRIAL COURT:

APP. TRIAL COUNSEL PERMITTED TO W/D ON APPEAL: N/A

INDIGENT STATUS REVOKED ON APPEAL:

INDIGENT STATUS GRANTED ON APPEAL:

---X---	YES	-----	NO
-----	YES	-----	NO
-----	YES	---X---	NO
---X---	YES	-----	NO

DEATH PENALTY: NO

APPEAL TYPE: STATE CONVICTION

THIS IS AN APPEAL FROM A CONVICTION.

DATE OF CONVICTION: 12/11/2002

DATE OF SENTENCE: 12/30/2002

YOUTHFUL OFFENDER STATUS: DENIED

CD/CASE NUMBER: 03/CC 2002 000909.00

CODE: ROB1 CONVICTION: ROBBERY 1ST

ACTION: CONVICTED

STATUTE: 13A-008-041

SENTENCE: CONF: 00 YRS 00 MOS 000 DAYS

SENTENCE: PROB: 00 YRS 00 MOS 000 DAYS

LIFE: YES LIFEWD: NO

POST-JUDGMENT MOTIONS FILED: DT FILED

DT DENIED

CON BY AGREE

--- MOTION FOR NEW TRIAL

--- MOTION FOR JUDG. OF ACQUIT

--- MOTION TO W/D GUILTY PLEA

--- MOTION FOR ATTY TO W/DRAW

--- OTHER

COURT REPORTER(S):

ADDRESS:

NEWMAN MEREDITH

C/O HON. SALLY GREENHAW

MONTGOMERY, AL 36102

APPELLATE COUNSEL #1:

ADDRESS:

HARTLEY JOHN W JR

312 SCOTT ST.

PHONE NUMBER:

MONTGOMERY, AL 36104
205-269-9157

APPELLATE COUNSEL #2:

ADDRESS:

PHONE NUMBER:

APPELLANT (PRO SE):

ADDRESS:

GREENWOOD KOURTNEY SOVERN

103 COURTLAND DRIVE

MONTGOMERY, AL 361050000

AIS #:

APPELLEE (IF CITY APPEAL):

ADDRESS:

I CERTIFY THAT THE INFORMATION PROVIDED
ABOVE IS ACCURATE TO THE BEST OF MY
KNOWLEDGE AND I HAVE SERVED A COPY OF
THIS NOTICE OF APPEAL ON ALL PARTIES TO
THIS ACTION ON THIS 11th DAY OF January, 2003

OPERATOR: DEC

PREPARED: 01/08/2003

Melissa Pittman
CIRCUIT COURT CLERK

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ACR359

ALABAMA JUDICIAL DATA CENTER
MONTGOMERY COUNTY
TRANSCRIPT OF RECORD
CONVICTION REPORTCC 2002 000909.00 01
SARAH M. GREENHAW

CIRCUIT COURT OF MONTGOMERY COUNTY		COURT ORI: 003045 J	
STATE OF ALABAMA VS.		DC NO: GJ 2002 070232.00	
GREENWOOD KOURTNEY SOVERN ALIAS: COURTNEY GREENG J:		232	
103 COURTLAND DRIVE ALIAS: KOURTNEE GREEN		SID: 001357047	
MONTGOMERY AL 36105		AIS:	
DOB: 12/11/1979 SEX: M HT: 5 11 WT: 135 HAIR: EYE: RACE: () W (X) B () O COMPLEXION: AGE: FEATURES:			
DATE OFFENSE: 00/00/0000 ARREST DATE: 07/24/2002 ARREST ORI: 0030100			
CHARGES @ CONV	CITES	CT CL COURT ACTION	CA DATE
ROBBERY 1ST	13A-008-041	01 A CONVICTED	12/11/2002
		00	00/00/0000
		00	00/00/0000
JUDGE: SARAH M. GREENHAW		PROSECUTOR:	
PROBATION APPLIED	GRANTED	DATE	REARRESTED DATE REVOKED DATE
() Y () N	() Y () N	() Y () N	() Y () N
15-18-8, CODE OF ALA 1975	IMPOSED	SUSPENDED	TOTAL JAIL CREDIT
() Y (X) N CONFINEMENT:	00 00 000	00 00 000	00 00 000 00 00 160
PROBATION :	00 00 000		00 00 000
DATE SENTENCED: 12/30/2002	SENTENCE BEGINS: 00/00/0000		
PROVISIONS	COSTS/RESTITUTION	DUE	ORDERED
PENITENTIARY	RESTITUTION	\$96.00	\$96.00
LIFE	ATTORNEY FEE	\$150.00	\$150.00
	CRIME VICTIMS	\$50.00	\$50.00
	COST	\$375.00	\$375.00
	FINE	\$0.00	\$0.00
	MUNICIPAL FEES	\$0.00	\$0.00
	DRUG FEES	\$0.00	\$0.00
	ADDTL DEFENDANT	\$0.00	\$0.00
	DA FEES	\$0.00	\$0.00
	COLLECTION ACCT	\$0.00	\$0.00
	JAIL FEES	\$0.00	\$0.00
	TOTAL	\$671.00	\$671.00
APPEAL DATE	SUSPENDED	AFFIRMED	REARREST
(X) Y () N 12/30/2002	() Y () N	() Y () N	() Y () N
REMARKS:		THIS IS TO CERTIFY THAT THE ABOVE INFORMATION WAS EXTRACTED FROM OFFICIAL COURT RECORDS AND IS TRUE AND CORRECT.	
		MELISSA RITTENOUR(CC)	
		01/08/2003	

OPERATOR: DEC
PREPARED: 01/08/2003

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ACR359

ALABAMA JUDICIAL DATA CENTER
MONTGOMERY COUNTY
TRANSCRIPT OF RECORD
CONVICTION REPORT

AMENDED

CC 2002 000909.00 01
SARAH M. GREENHAW

CIRCUIT COURT OF MONTGOMERY COUNTY		COURT ORI: 003045 J	
STATE OF ALABAMA VS.		DC NO: GJ 2002 070232.00	
GREENWOOD KOURTNEY SOVERN ALIAS: COURTNEY GREENG J:		232	
103 COURTLAND DRIVE ALIAS: KOURTNEE GREEN			
MONTGOMERY AL 36105		SID: 001357047	
		AIS:	
DOB: 12/11/1979 SEX: M HT: 5 11 WT: 135 HAIR: EYE:			
RACE: () W (X) B () O COMPLEXION: AGE: FEATURES:			
DATE OFFENSE: 00/00/0000 ARREST DATE: 07/24/2002 ARREST ORI: 0030100			
CHARGES @ CONV	CITES	CT CL COURT ACTION	CA DATE
ROBBERY 1ST	13A-008-041	01 A CONVICTED	12/11/2002
		00	00/00/0000
		00	00/00/0000
JUDGE: SARAH M. GREENHAW		PROSECUTOR:	
PROBATION APPLIED	GRANTED	DATE	REARRESTED DATE
() Y () N	() Y () N	() Y () N	() Y () N
15-18-8, CODE OF ALA 1975	IMPOSED	SUSPENDED	TOTAL
() Y (X) N CONFINEMENT:	00 00 000	00 00 000	00 00 000
PROBATION :	00 00 000		00 00 000
DATE SENTENCED: 12/30/2002	SENTENCE BEGINS: 12/30/2002		
PROVISIONS	COSTS/RESTITUTION	DUE	ORDERED
PENITENTIARY	RESTITUTION	\$96.00	\$96.00
LIFE	ATTORNEY FEE	\$150.00	\$150.00
HABITUAL OFDR	CRIME VICTIMS	\$50.00	\$50.00
	COST	\$375.00	\$375.00
	FINE	\$0.00	\$0.00
	MUNICIPAL FEES	\$0.00	\$0.00
	DRUG FEES	\$0.00	\$0.00
	ADDTL DEFENDANT	\$0.00	\$0.00
	DA FEES	\$0.00	\$0.00
	COLLECTION ACCT	\$0.00	\$0.00
	JAIL FEES	\$0.00	\$0.00
	TOTAL	\$671.00	\$671.00
APPEAL DATE	SUSPENDED	AFFIRMED	REARREST
(X) Y () N 12/30/2002	() Y () N	() Y () N	() Y () N
REMARKS:			
THIS IS TO CERTIFY THAT THE			
ABOVE INFORMATION WAS EXTRACTED			
FROM OFFICIAL COURT RECORDS			
AND IS TRUE AND CORRECT.			
(AMENDED)			
SENTENCE BEGIN DATE IS 12/30/02.			
ALL OTHER ASPECTS FROM THE PREVIOUS TRANSCRIPT ARE TO REMAIN THE SAME.			
MELISSA RITTENOUR(CC)			
01/17/2003			

OPERATOR: DBH
PREPARED: 01/17/2003

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, ALABAMA

STATE OF ALABAMA,

*

Plaintiff,

*

v.

*

CASE NO. CC-02-909 TMH

KOURTNEY GREENWOOD,

*

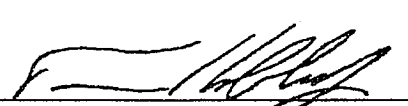
Defendant.

*

ORDER

The Court having found Defendant to be indigent, it is ORDERED that the Honorable John W. Hartley is given leave to withdraw and the Honorable Maceo Kirkland is appointed to represent Defendant in the above referenced matters on appeal.

DONE this the 4th day of February, 2003.


TRUMAN M. HOBBS, JR.
CIRCUIT JUDGE

Pc:

John W. Hartley, Esq.
Maceo Kirkland, Esq.
District Attorney
Court of Criminal Appeals
Office of the Attorney General

RECEIVED2-4-03

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State of Alabama Unified Judicial System Form ARAP- 26 (front) 8/91	COURT OF CRIMINAL APPEALS DOCKETING STATEMENT	Criminal Appeal Number <u>CR - 02-0634</u>
---	---	---

A. GENERAL INFORMATION:

☒ CIRCUIT COURT ☐ DISTRICT COURT ☐ JUVENILE COURT OF Montgomery COUNTY

Kourtney Greenwood, Appellant

V. ☒ STATE OF ALABAMA ☐ MUNICIPALITY OF _____

Case Number <u>CC-02-909</u>	Date of Complaint or Indictment <u>7/19/02</u>	Date of Judgment/Sentence/Order <u>12/30/02</u>
Number of Days of Trial/Hearing <u>One</u> Days	Date of Notice of Appeal Oral: <u>12/30/02</u> Written: _____	
Indigent Status Requested: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Indigent Status Granted: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

B. REPRESENTATION:

Is Attorney Appointed or Retained? ☒ Appointed ☐ Retained. If no attorney, will appellant represent self? ☐ Yes ☐ No

Appellant's Attorney (Appellant if pro se) (Attach additional pages if necessary) <u>Maceo O. Kirkland</u>	Telephone Number <u>(334) 261-6200</u>
Address <u>529 S. Perry St. Ste 14-A</u> City <u>Montgomery</u>	State <u>AL</u> Zip Code <u>36104</u>

C. CODEFENDANTS: List each CODEFENDANT and the codefendant's case number.

Codefendant <u>Jamda Brown</u>	Case Number <u>CC-02-0905</u>
Codefendant	Case Number
Codefendant	Case Number

D. TYPE OF APPEAL: Please check the applicable block.

1 ☒ State Conviction
 4 ☐ Pretrial Order
 7 ☐ Juvenile Transfer Order
 10 ☐ Other (Specify) _____
 2 ☐ Post-Conviction Remedy
 5 ☐ Contempt Adjudication
 8 ☐ Juvenile Delinquency _____
 3 ☐ Probation Revocation
 6 ☐ Municipal Conviction
 9 ☐ Habeas Corpus Petition _____

E. UNDERLYING CONVICTION/CHARGE: Regardless of the type of appeal checked in Section D, please check the box beside each offense category for which the appellant has been convicted or charged as it relates to this appeal. Also include the applicable section of the Code of Alabama for State convictions.

1 <input type="checkbox"/> Capital Offense - § _____	6 <input type="checkbox"/> Trafficking in Drugs - § _____	11 <input type="checkbox"/> Fraudulent Practices - § _____
2 <input type="checkbox"/> Homicide - § _____	7 <input type="checkbox"/> Theft - § _____	12 <input type="checkbox"/> Offense Against Family - § _____
3 <input type="checkbox"/> Assault - § _____	8 <input type="checkbox"/> Damage or Intrusion to Property - § _____	13 <input type="checkbox"/> Traffic - DUI - § _____
4 <input type="checkbox"/> Kidnapping/Unlawful Imprisonment - § _____	9 <input type="checkbox"/> Escape - § _____	14 <input type="checkbox"/> Traffic - Other - § _____
5 <input type="checkbox"/> Drug Possession - § _____	10 <input type="checkbox"/> Weapons/Firearms - § _____	15 <input type="checkbox"/> Miscellaneous (Specify): <u>Robbery I - § 13A-8-41</u>

F. DEATH PENALTY:

Does this appeal involve a case where the death penalty has been imposed? ☐ Yes ☒ No

G. TRANSCRIPT:

1. Will the record on appeal have a reporter's transcript? ☒ Yes ☐ No

2. If the answer to question "1" is "Yes," state the date the Reporter's Transcript Order was filed. 2/6/03 (Date)

3. If the answer to question "1" is "No":

(a) Will a stipulation of facts be filed with the circuit clerk? ☐ Yes ☐ No

(b) Will the parties stipulate that only questions of law are involved and will the trial court certify the questions? ☐ Yes ☐ No

NOTE: If the appeal is from the district or juvenile court and the answer to question "1" is "No," then a positive response is required for question 3(a) or 3(b).

Form ARAP- 26 (back) 8/91

COURT OF CRIMINAL APPEALS DOCKETING STATEMENT

H. POST-JUDGMENT MOTIONS: List all post-judgment motions by date of filing, type, and date of disposition (whether by trial court order or by the provisions of Rules 20.3 and 24.4 (ARCrP)):

DATE OF FILING			TYPE OF POST-JUDGMENT MOTION	DATE OF DISPOSITION		
Month	Day	Year		Month	Day	Year

I. NATURE OF THE CASE: Without argument, briefly summarize the facts of the case.

The appellant was arrested ~~and~~ indicted, and convicted of robbing someone with a firearm.

J. ISSUE(S) ON APPEAL: Briefly state the anticipated issues that will be presented on appeal. (Attach additional pages if necessary.)

Unknown at this time.

K. SIGNATURE:

2/6/03
Date

Maceo O. Kirkland
Signature of Attorney/Party Filing this Form

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State of Alabama Unified Judicial System Form ARAP-1C 8/91	REPORTER'S TRANSCRIPT ORDER -- CRIMINAL See Rules 10(c) and 11(b) of the Alabama Rules of Appellate Procedure (A.R. App.P.)	Criminal Appeal Number <u>CR - 02-0634</u>
--	--	---

TO BE COMPLETED BY COUNSEL FOR THE APPELLANT OR BY THE APPELLANT IF NOT REPRESENTED AND FILED WITH THE WRITTEN NOTICE OF APPEAL OR FILED WITHIN 7 DAYS AFTER ORAL NOTICE OF APPEAL IS GIVEN.

☒ CIRCUIT COURT ☐ DISTRICT COURT ☐ JUVENILE COURT OF Montgomery COUNTY
Kourtney Greenwood, Appellant

V. ☒ STATE OF ALABAMA ☐ MUNICIPALITY OF _____

Case Number <u>CC-02-909</u>	Date of Judgment/Sentence/Order <u>12/30/02</u>
Date of Notice of Appeal Oral: <u>12/30/02</u> Written: _____	Indigent Status Granted: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

PART 1. TO BE SIGNED IF THE APPEAL WILL NOT HAVE A COURT REPORTER'S TRANSCRIPT:

I CERTIFY THAT NO REPORTER'S TRANSCRIPT IS EXPECTED AND THAT THE RECORD ON APPEAL SHALL CONSIST OF THE CLERK'S RECORD ONLY. IF THE APPEAL IS FROM DISTRICT COURT OR JUVENILE COURT, I ALSO CERTIFY (1) THAT A STIPULATION OF FACTS WILL BE INCLUDED IN THE CLERK'S RECORD AND THAT THE APPELLANT WAIVES HIS RIGHT TO A JURY TRIAL IF SO ENTITLED; OR (2) THAT THE PARTIES HAVE STIPULATED THAT ONLY QUESTIONS OF LAW ARE INVOLVED AND THAT THE QUESTIONS WILL BE CERTIFIED BY THE JUVENILE/DISTRICT COURT FOR INCLUSION IN THE CLERK'S RECORD (SEE RULE 28(A)(1), ALABAMA RULES OF JUVENILE PROCEDURE, AND §12-12-72, CODE OF ALABAMA 1975).

Signature _____ Date _____ Print or Type Name _____

PART 2. DESIGNATION OF PROCEEDINGS TO BE TRANSCRIBED. Request is hereby made to the court reporter(s) indicated below for a transcript of the following proceedings in the above referenced case (see Rule 10(c)(2), Alabama Rules of Appellate Procedure (A.R. App.P.)):

MARK PROCEEDINGS REQUESTED:

A. ☒ **TRIAL PROCEEDINGS** - Although this designation will include the judgment and sentence proceedings, a transcript of the organization of the jury and arguments of counsel must be designated separately

COURT REPORTER(S)
Meredith Newman

B. ☐ **ORGANIZATION OF THE JURY** - This designation will include voir dire examination and challenges for cause. Note that in noncapital cases the voir dire of the jury will not be recorded unless the trial judge so directs. (See Rule 19.4, ARCP.)

C. ☒ **ARGUMENTS OF COUNSEL** - Note that in noncapital cases the arguments of counsel will not be recorded unless the trial judge so directs. (See Rule 19.4, ARCP.)

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42

E X H I B I T S

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EXHIBIT NO. 1 -- PHOTO LINE-UP



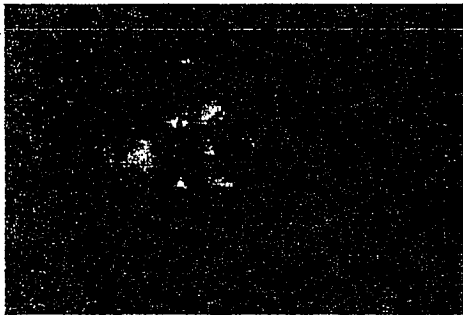
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STATE'S
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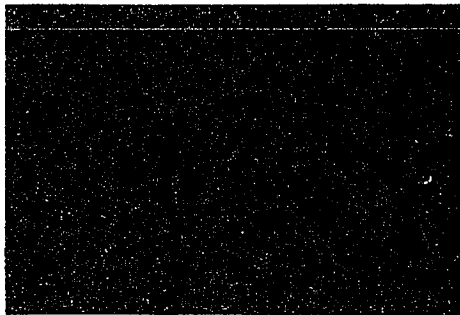
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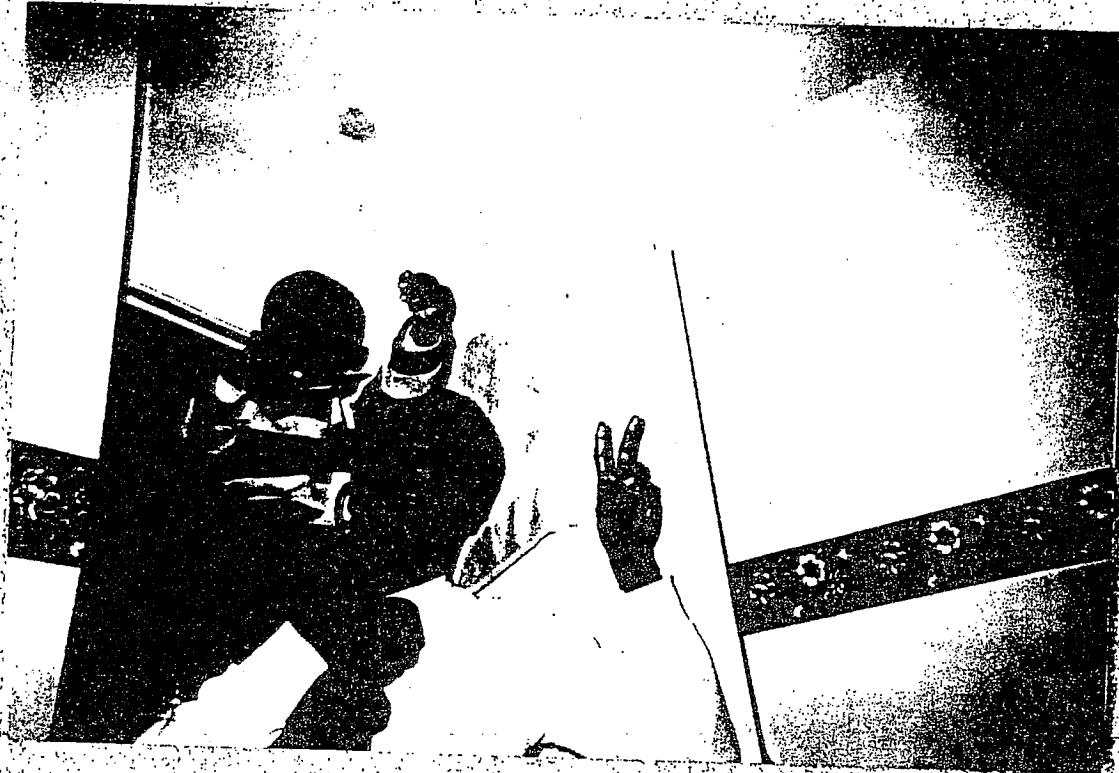
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44



**DEFENDANT'S
EXHIBIT**

46



47

Kourtnee 22 yrs
Kourtnee Jr 21/15

DEFENDANT'S
EXHIBIT

2

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State of Alabama Unified Judicial System Form ARAP-14	Rev. 11/91	CERTIFICATE OF COMPLETION AND TRANSMITTAL OF RECORD ON APPEAL BY TRIAL CLERK	Appellate Case Number <u>CC-02-909</u>
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TO: THE CLERK OF THE COURT OF CRIMINAL APPEALS OF ALABAMA	DATE OF NOTICE OF APPEAL: <u>12-30-02</u>
APPELLANT <u>Kantray Greenwood</u>	
v. STATE OF ALABAMA	

I certify that I have this date completed and transmitted herewith to the appellate court the record on appeal by assembling in (a single volume of _____ pages) (_____ volumes of 200 pages each and one volume of _____ pages) the clerk's record and the reporter's transcript and that one copy each of the record on appeal has been served on the defendant and the Attorney General of the State of Alabama for the preparation of briefs.

I certify that a copy of this certificate has this date been served on counsel for each party to the appeal.

DATED this 17th day of Feb, 03.

Melissa Pittman
Circuit Clerk

1 IN THE CIRCUIT COURT

2 OF

3 MONTGOMERY COUNTY, ALABAMA

4
5 STATE OF ALABAMA,

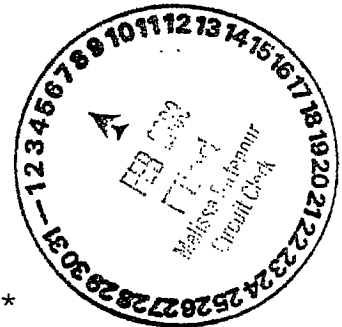
6 Plaintiff,

7 vs.

CASE NO: CC-02-0909

8 KOURTNEY GREENWOOD,

9 Defendant.



10
11
12
13 * * * * *

14
15 PROCEEDINGS in the above-styled
16 cause before the Honorable Sally M. Greenhaw,
17 Presiding Judge, in Courtroom 3-C, Montgomery
18 County Circuit Court, 251 South Lawrence Street,
19 Montgomery, Alabama, commencing on Tuesday,
20 December 10, 2002.

21
22 * * * * *

23
24
25 Meridith D. Newman,
Official Court Reporter

APPEARANCES

FOR THE STATE:

Ms. Vernetta Perkins
Montgomery County Deputy District
Attorney
251 South Lawrence Street
Montgomery, Alabama 36102

FOR THE DEFENDANT:

Mr. John Wiley Hartley
Attorney at Law
312 Scott Street
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* * * * *

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DEFENDANT'S EXHIBITS:

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EXHIBIT NO. 2 -- PHOTOGRAPH OF DEFENDANT

1 MS. PERKINS: I think there's
2 several issues we need to take up.

3 THE COURT: Well, we --

4 MS. PERKINS: Mr. Hartley just
5 informed me of what he expects his defense to be.
6 From my understanding, Judge, Mr. -- Mr. Brown, the
7 co-defendant, is going to take the stand. It is
8 going to be his testimony that Mr. Greenwood was
9 not with him at the time and he does not even know
10 Mr. Greenwood. There are several witness -- well,
11 first thing -- first thing is first. When he does
12 do that, that opens the door to me establishing
13 that he does know --

14 THE COURT: Yeah, okay.

15 MS. PERKINS: -- does know -- does
16 know. And that -- that -- the way that he's known
17 him -- my prior motion -- I don't know if you
18 remember in the prior trial. I made a motion in
19 limine. And I'm understanding the Court's position
20 will probably --

21 THE COURT: What was your motion?

22 MS. PERKINS: Okay. The case agent
23 in this case, the way they developed Mr. Greenwood
24 as a suspect is because they were investigating a
25 prior robbery that the two of them had done

1 together and the victim in that prior case --

2 THE COURT: I'm not letting you get
3 into the robbery.

4 MS. PERKINS: Yes, ma'am. In my
5 case in chief, however, Judge, if he opens the door
6 to it --

7 THE COURT: Then we'll take it up at
8 that time. But right now, you cannot get into that
9 at all.

10 MS. PERKINS: Yes, I understand
11 that.

12 MR. HARTLEY: Judge, if the State --
13 here's what I expect to do. First of all, I don't
14 think that it would be allowable for them to go
15 into some investigation. But I'm -- I think now
16 I'm just going to ask this young man, the
17 co-defendant, if he committed the crime alone. I'm
18 not going to ask him if he knows him or not.

19 MS. PERKINS: Well, I have the right
20 to ask him on cross --

21 THE COURT: Well, she'll have to
22 wait and see what -- you know --

23 MR. HARTLEY: I don't think they can
24 open the door and then make the case for --

25 THE COURT: Let's just wait and see

1 how it goes.

2 MR. HARTLEY: Okay.

3 MS. PERKINS: Judge, I -- because --
4 due to what Mr. Hartley has informed me of this
5 morning, I am issuing subpoenas for these people --
6 because, of course, I wasn't aware -- so we're in
7 the process of getting our investigators to get
8 those people. If after this point, we do need to
9 call those rebuttal witnesses, I may be asking for
10 a continuance so we can get them here.

11 THE COURT: Well, you can -- we're
12 getting started and see where they are.

13 MS. PERKINS: Yes, ma'am.

14 MR. HARTLEY: And we object, Judge,
15 because we're supposed to have prior notice of any
16 404B evidence.

17 MS. PERKINS: And we've given you
18 prior notice as well as prior to trial. And as to
19 Mr. Hartley --

20 THE COURT: You know, I don't know
21 of any requirement that either side has to tell the
22 other side who they're calling for witnesses.

23 MR. HARTLEY: It is in 404B, Judge.

24 THE COURT: But --

25 MR. HARTLEY: It's a clause in 404B.

1 THE COURT: So who's doing the 404B?

2 MR. HARTLEY: She's claiming she's
3 going to be using 404B --

4 MS. PERKINS: -- in rebuttal.

5 THE COURT: In rebuttal. But, I
6 mean, you don't have to tell her who your witnesses
7 are.

8 MR. HARTLEY: Well, we probably
9 shouldn't have.

10 THE COURT: Let's just go ahead with
11 it.

12 MS. PERKINS: And I have case law to
13 the contrary that says we can do that.

14 (In the presence of the venire.)

15 THE COURT: Good morning. I've met
16 some of you. But for those of you who I have not
17 met, I'm Judge Sally Greenhaw. And we're about to
18 start a case. It's a criminal case, and it's the
19 State of Alabama versus Kourtney Greenwood.
20 Mr. Greenwood is charged with robbery in the first
21 degree of Larry Copeland, which is alleged to have
22 occurred on August the 9th of this year on
23 Moorecroft Drive.

24 And I'm mentioning that to you, because I'm
25 going to ask you shortly if you know or if you've

1 heard anything about the case. But before I do
2 that, I'm going to introduce you to everyone seated
3 at counsel table. And the State today is
4 represented by Vernetta Perkins and Richard White.
5 And seated with them is Larry Copeland. And down
6 at this end is Mr. Kourtney Greenwood and his
7 attorney, John Wiley Hartley.

8 And I know some of you have been through this
9 before. But I'm going to have you introduce
10 yourselves to us. When I call your name, if you
11 would stand, if you're employed, tell us where
12 you're employed. And if you're married, where your
13 spouse is employed. If you're fortunate enough to
14 be retired, the occupation from which you're
15 retired. And if you're not working or in school,
16 we need to know that as well. And if I
17 mispronounce anyone's name, please let me know.

18 (Roll call was taken.)

19 THE COURT: I'm going to be asking
20 some questions, and then I'm sure the attorneys
21 will have some follow-ups. When I refer to family
22 members, I'm referring to someone in your immediate
23 family, your spouse, children, grandchildren,
24 parents, grandparents, brothers, sisters, or if
25 there's a particular close friend that you think it

1 would be helpful for the attorneys to have that
2 information, you can also share that with us.

3 I had introduced you to everyone seated at
4 counsel table, and I'm going to ask the same
5 question about each of them, but not repeat it each
6 time. What I need to know is if you know any of
7 them -- and this applies to witnesses as well -- or
8 related to them by blood or marriage. And I'll
9 start again, the State today is represented by
10 Vernetta Perkins and Richard White. Anyone here
11 know them? (No response.)

12 THE COURT: And seated with them is
13 Larry Copeland?

14 PROSPECTIVE JUROR: Juror raises
15 hand.

16 THE COURT: Okay. You know
17 Mr. Copeland? And if you need to respond, stand,
18 give your name and any details that may be helpful.
19 And if you state and -- and how do you know him and
20 give your name.

21 PROSPECTIVE JUROR: My name is
22 Aretha Pettaway. He used to shampoo my hair.

23 THE COURT: Okay. So do you see him
24 just in that area or --

25 PROSPECTIVE JUROR: I see him out.

1 And whenever I see him, we talk so --

2 THE COURT: Well, do you see him, I
3 guess, on a fairly regular basis?

4 PROSPECTIVE JUROR: No.

5 THE COURT: Okay. You don't. And
6 I'm going to ask this to everyone anyway.

7 Have you or anyone else here heard anything or
8 know anything about this case?

9 PROSPECTIVE JUROR: No, ma'am.

10 THE COURT: Your contact with him,
11 would that cause you any problem serving as a
12 juror?

13 PROSPECTIVE JUROR: I think so.

14 THE COURT: Okay. We'll talk with
15 you later in private.

16 And down at this end is Kourtney Greenwood and
17 his --

18 MS. PERKINS: Judge, there's someone
19 else.

20 THE COURT: Okay. I'm sorry.

21 PROSPECTIVE JUROR: I'm not
22 positive, but I believe I sold some equipment to
23 the prosecutor here at one time. So I'm not
24 sure --

25 THE COURT: I don't think so. He's

1 just started working, so, probably -- unless you
2 were fast. He's been here two or three weeks, but
3 maybe you'll have contact with him.

4 Down at this end is Kourtney Greenwood and his
5 attorney, John Wiley Hartley? Some -- okay?

6 PROSPECTIVE JUROR: Wiley Hartley is
7 my attorney.

8 THE COURT: Okay. And would you
9 state your name?

10 PROSPECTIVE JUROR: Cynthia Webster.

11 THE COURT: And is he presently your
12 attorney or has he represented you in the past?

13 PROSPECTIVE JUROR: He's represented
14 me in the past.

15 THE COURT: How long ago was it?

16 MR. HARTLEY: Several times, Judge,
17 over this year.

18 PROSPECTIVE JUROR: You were the
19 Judge.

20 THE COURT: Okay. So, has it been a
21 continuing representation over the years?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: And --

24 PROSPECTIVE JUROR: And personal
25 friend and family friend.

1 THE COURT: Okay. Thank you.

2 And anyone else?

3 (No response.)

4 THE COURT: I'm going to call -- not
5 all of these people may testify, but their names
6 may be mentioned. And if you're not sure if you
7 know someone, the attorneys can help us out with
8 maybe where they work or where they live.
9 Lavan Howard?

10 (No response.)

11 THE COURT: Deven -- Devean or
12 Devon Greenwood?

13 (No response.)

14 THE COURT: Kimberly Greenwood?

15 (No response.)

16 THE COURT: Harold Franklin?

17 (No response.)

18 THE COURT: Kristy Arnett?

19 (No response.)

20 THE COURT: Lavar Williams?

21 (No response.)

22 THE COURT: And Jamar Brown?

23 (No response.)

24 THE COURT: Okay. Does anyone here
25 have any interest whatsoever in the conviction or

1 the acquittal of the defendant? Or has anyone made
2 any promises that he or she will convict or acquit?

3 (No response.)

4 THE COURT: Does anyone here have a
5 fixed opinion as to the guilt or innocence of the
6 defendant, which would bias your verdict?

7 (No response.)

8 THE COURT: Any time you had rather
9 not answer a question in front of the rest of the
10 panel, we can talk to you in private. And there
11 are probably a couple of you already we're going to
12 need to talk to you individually. But I do need to
13 know if anyone here or in your immediate family has
14 ever been charged with or convicted of an offense
15 such as robbery -- any type of robbery or if anyone
16 here or anyone in your family has ever been a
17 victim of a robbery? Does anyone on the front
18 row -- let's do it by rows -- want to answer it at
19 this time?

20 (No response.)

21 THE COURT: Okay. The second row, I
22 see a hand -- some hands. Okay.

23 PROSPECTIVE JUROR: Yeah, Gerald
24 Roth.

25 THE COURT: And were you the victim

1 or someone in your family?

2 PROSPECTIVE JUROR: I was, yes.

3 THE COURT: And how long ago was it?

4 PROSPECTIVE JUROR: '94.

5 THE COURT: Okay. Was anyone

6 arrested?

7 PROSPECTIVE JUROR: Oh, no, this was
8 a foreign country. They had no police.

9 THE COURT: Okay. And what I need
10 to know is if you've had any experiences like that,
11 we just need to know if it's going to have any
12 impact on your sitting on this jury, would that
13 incident --

14 PROSPECTIVE JUROR: No.

15 THE COURT: Okay. Thank you.

16 Another hand?

17 PROSPECTIVE JUROR: Walter Pugh. A
18 house, years ago. And I've got three or four
19 brothers and sisters and they've had things stolen
20 out of cars and stuff like that.

21 THE COURT: Okay. Thank you.

22 Okay. Anybody else on that row?

23 (No response.)

24 THE COURT: What about the next row?

25 Okay. I see a hand.

1 PROSPECTIVE JUROR: I was a victim
2 at work --

3 THE COURT: Okay.

4 PROSPECTIVE JUROR: -- last year.

5 THE COURT: And where were you
6 working?

7 PROSPECTIVE JUROR: At Extended
8 Stay.

9 THE COURT: Okay. And was anyone
10 arrested for that?

11 PROSPECTIVE JUROR: No.

12 THE COURT: And you're
13 Ms. Stallings?

14 PROSPECTIVE JUROR: Yes, I am.

15 THE COURT: Okay. Thank you.

16 Anyone else on that row?

17 (No response.)

18 THE COURT: I see a hand on the next
19 row. Any -- there's so many rows, I -- the fourth
20 row?

21 PROSPECTIVE JUROR: Yes, ma'am.

22 I -- my son was robbed maybe about two years ago or
23 so. And the person was convicted for it.

24 THE COURT: Okay.

25 PROSPECTIVE JUROR: That's about two

1 years ago, I believe, maybe a little longer, but
2 around two years or so.

3 THE COURT: And you're Mr. Whiting.

4 PROSPECTIVE JUROR: Mr. Whiting,
5 yes.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR: Cynthia Webster.
8 I was the victim. I was robbed, and they were
9 convicted.

10 THE COURT: Okay. And how long ago
11 was that?

12 PROSPECTIVE JUROR: A year ago.

13 THE COURT: A year ago? I didn't
14 hear --

15 PROSPECTIVE JUROR: (Prospective
16 juror nods.)

17 THE COURT: Okay.

18 PROSPECTIVE JUROR: Judy Debutte.
19 We had an employee steal money, and he was
20 convicted though.

21 THE COURT: Okay. I see a hand on
22 the back row.

23 PROSPECTIVE JUROR: Jennifer White.

24 In '94, my mom and I were broke in at home.

25 THE COURT: Okay.

1 PROSPECTIVE JUROR: My name is
2 John Williamson. My parents were burglarized
3 within the past year at their home. And he was
4 arrested. I believe he was convicted.

5 THE COURT: Anyone --

6 (No response.)

7 THE COURT: Let me ask all of you
8 who responded if -- would those incidents, if
9 anyone, that would make a difference in you serving
10 on the jury, I need to let you tell us at this
11 time. Would anyone -- would that incident have any
12 affect on any of you from serving on this jury?

13 (No response.)

14 THE COURT: Okay. Sometimes for
15 personal reasons, moral reasons, or religious
16 reasons, a person does not think he or she can sit
17 in judgment on their fellow man. Is there anyone
18 here who would not be able to serve on the jury
19 because of such a belief?

20 (No response.)

21 THE COURT: Okay. And does the
22 State -- are you going --

23 MS. PERKINS: Just briefly.

24 Good morning everybody. I see y'all all
25 wrapped up from the rain. My name is

1 Vernetta Perkins again. I represent the State of
2 Alabama in this case. I'm the prosecutor. And I
3 just want to ask you a couple of questions.

4 First of all, how many of you watch court TV
5 shows: Law and Order, Alley McBeal, The Practice,
6 all that stuff -- all of the above?

7 (Prospective jurors raise their
8 hands.)

9 MS. PERKINS: I can't believe
10 there's actually people in here that did not raise
11 your hand. Usually everybody raises their hand.
12 How many of you all know that the law on those
13 television shows that you see is maybe different
14 than the law here in the State of Alabama?

15 (Jurors raise their hands.)

16 MS. PERKINS: Okay. A few of the
17 people that don't watch the shows should be raising
18 your hand to that one. How many of you will be
19 able to follow the law that the Judge is going to
20 instruct you that applies in this case, rather than
21 what you saw on Law and Order last night -- was it
22 last night? What's today? Today is Tuesday -- no,
23 that you'll see tomorrow night. I watch Law and
24 Order too.

25 (Prospective jurors raise their

1 hands.)

2 MS. PERKINS: Okay. There may be --
3 I don't -- I didn't hear if the Judge asked this or
4 not. There may be some evidence that you all have
5 to look at in this case. How many of you all --
6 does anybody have a problem seeing to where if an
7 exhibit is handed to you, you wouldn't be able to
8 look at it?

9 (No response.)

10 MS. PERKINS: That's it, Judge.

11 THE COURT: Mr. Hartley?

12 MR. HARTLEY: Just one question, and
13 I think it's been asked to you at one point
14 already. The Judge has sort of qualified y'all on
15 who have been victims of crime yourself or related
16 to someone who has been a victim of crime. And she
17 asked whether or not, even if that's happened,
18 whether you could sit on this jury. I want to
19 phrase that same question a little differently and
20 pose this hypothetical. That, if, in this case,
21 the evidence were real close on the issue of guilt
22 or real close on the issue of innocence, or, you
23 know, to whether it was almost fifty, fifty type
24 thing. I want to ask you to kind of search your
25 own soul and search your own mind and ask this

1 question. Could my experience possibly affect my
2 verdict one way or the other if I had to make a
3 very close call in this case? If you have -- if
4 the fact that you've been a victim of a crime or if
5 there is any reason that we haven't hit on yet that
6 might affect your verdict in this case some way,
7 either for the State or for the defense, we ask you
8 to stay in here after the Judge releases you -- the
9 whole group to go to the jury room, you have a
10 right to stay in here and have sort of a more
11 private conversation -- it's not totally private,
12 because we'll still be here -- but you can disclose
13 or brief the Court on any matter that might affect
14 your verdict. So I want to pose it to you that way
15 and ask you to stay if you think there's something
16 that needs to be known about your personal
17 situation that might affect this case. Thank you.

18 THE COURT: Let me ask just one last
19 question to the Stovalls. I'm sure, if you were
20 both selected, you could each make your own
21 independent decision; is that correct, and not be
22 influenced by the other?

23 PROSPECTIVE JUROR: Yes.

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: Let me see the attorneys

1 just a moment.

2 (Bench conference was held.)

3 MR. HARTLEY: I move to strike.

4 THE COURT: Do y'all want to keep
5 them in here and talk to them?

6 MS. PERKINS: No. We can go ahead
7 and strike both of them.

8 (In the hearing of the venire.)

9 THE COURT: We, hopefully -- it will
10 probably take us about fifteen minutes. I'll
11 just -- we'll, hopefully, let you know before 11:30
12 who's on the jury. If anyone does need to stay in
13 here, I'd ask you to remain. The rest of you are
14 released until 11:30, and we'll get -- let you know
15 in the jury assembly about 11:30 who's on the jury.

16 (Out of presence of the jury.)

17 (In the presence of Ms. Pettaway.)

18 THE COURT: Ms. Pettaway, if you'll
19 just come up here, I think we can take care of you.
20 You had indicated that it would cause you some
21 problem if you were selected for this jury.

22 PROSPECTIVE JUROR: I think it
23 would.

24 THE COURT: And we're just going to
25 go ahead and excuse you.

1 PROSPECTIVE JUROR: Okay.

2 THE COURT: And if you'll check with
3 the administrator's office, to see if you're needed
4 the rest of the day or where.

5 PROSPECTIVE JUROR: Okay.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR: I just --

8 THE COURT: Wait just a minute. Not
9 you. Not you.

10 (In the presence of Ms. Skipper.)

11 THE COURT: Did you need to ask us
12 something?

13 PROSPECTIVE JUROR: No. I just --
14 when we were talking about robbery, I guess, I just
15 was -- my car was broken into one time. And -- but
16 that didn't occur to me until I heard some other
17 people --

18 THE COURT: Well, it's -- probably
19 because it's not technically a robbery. But, you
20 know, you were a victim of an offense. And would
21 that have any impact on your sitting on this jury?

22 PROSPECTIVE JUROR: I don't think
23 so.

24 THE COURT: And you're Ms. Skipper?

25 PROSPECTIVE JUROR: Correct.

1 THE COURT: Okay. Thank you for
2 letting -- do y'all want to ask her anything?

3 MS. PERKINS: No.

4 THE COURT: Okay. Thank you.

5 (Out of the presence of

6 Ms. Skipper.)

7 (Striking of the jurors.)

8 MS. PERKINS: Judge, can I have a
9 moment to review for a possibly Batson challenge?

10 THE COURT: Yes.

11 MS. PERKINS: Judge, I don't have a
12 challenge.

13 THE COURT: Thank you.

14 MR. DARNIELLE: Bring them in?

15 THE COURT: Yeah -- let me be
16 sure -- let's be sure we all have the same ones. I
17 forgot. 309, 310, 323, 330, 366, 388, 392, 397,
18 419, alternate 436, 442, 448, and 500. Okay.

19 (In the presence of the jury.)

20 THE COURT: And if you'll come
21 around and go to one of the end of the rows and
22 remain standing. Okay. Before we start, I'm going
23 to swear you in for this particular case. So if
24 all of you will raise your right hands?

25 (Jurors sworn.)

1 THE COURT: You can be seated.

2 Before we start, I'm going to briefly explain to
3 you the procedures that we'll be following and the
4 duties of the Court and the duties of the jury.
5 Some of you may have been involved in court
6 proceedings before. But for those of you who have
7 not, hopefully, it will be helpful.

8 First of all, as trial judge, it's my duty to
9 ensure the orderly conduct of the trial, rule on
10 questions of law as they may arise from time to
11 time. And, at the end of the case, instruct you on
12 the law that applies. Now, you as the jury, you
13 are the sole and exclusive judges of the facts.
14 It's your duty to listen to the evidence and from
15 it determine the true facts and then apply the law
16 as given to you by the Court to the facts as you
17 find them to arrive at your verdict.

18 Now, the procedure that we'll follow is, first
19 of all, counsel for the State will make an opening
20 statement, and then counsel for defendant will
21 respond. At this time, each of the attorneys is
22 confined to a statement of what they expect the
23 evidence to show. Now, these statements, they're
24 not evidence. They're simply given to familiarize
25 you with the case. Following opening statements,

1 then there will be testimony from witnesses on the
2 stand and may also be some exhibits or documents.
3 During the course of the trial, the attorneys will
4 object from time to time. That's their job. And
5 it's up to the Court to rule on those objections.
6 But you should not concern yourself with any of the
7 reasons for my rulings, as they're controlled and
8 required by law. You're also not to speculate as
9 to any possible answers to questions which are not
10 required to be answered. In addition, the
11 overruling of an objection is not intended to
12 indicate the weight to be given such evidence.
13 Following the close of the evidence, then the
14 attorneys will address you again and make closing
15 arguments, and they'll discuss the evidence that's
16 been presented and all reasonable inferences to
17 help guide you to your verdict.

18 Now, we'll be taking breaks, and it may depend
19 on where we are with a witness. But if anyone does
20 need to take a break, just raise your hand and get
21 my attention and we can do so. I do want to
22 caution you at this time not to discuss the case
23 with anyone. That includes a fellow juror. In
24 fact, you're not even to consider the matter until
25 you've heard all of the evidence.

1 Are you ready with opening?

2 MS. PERKINS: Yes, Judge.

3 May it please the Court, counsel?

4 Members of the jury, back on April 18th of
5 2002, the victim in this case, Mr. Larry Copeland,
6 was walking down the street. He was walking down
7 Raintree Street, which is over off of Virginia Loop
8 Road. It's about 11:15, 11:30 at night, he was
9 walking with a young friend of his. He was going
10 over to a friend's house -- a girlfriend. He was
11 going to visit -- just going around the block. He
12 was coming from his father's house, which was right
13 around the corner.

14 As Mr. Copeland is walking down that street, a
15 man named Jamar Brown and this defendant seated
16 right here walked up to him. They called out to
17 him. They were behind him. They called out to
18 him. And they asked him a question about some
19 apartments that were right across the street.
20 Asked him if there was an entrance to those
21 apartments right there. This appeared to be an odd
22 question to Mr. Copeland. He was, like, you know,
23 Yeah, you can go in right there. But he had to
24 slow down to get their attention and answer the
25 question. And as he slowed down, this defendant

1 and Jamar Brown approached him. Jamar Brown pulled
2 out a gun and stuck it to his head. This defendant
3 grabbed that little boy that was standing there,
4 and they took property from him. They took his
5 wallet. They took money from him. And they took
6 his identification.

7 And, members of the jury, that's what this
8 case is about. This is a robbery case. This is
9 about using force in the act of committing a theft.
10 Mr. Copeland is going to take the stand, and he's
11 going to tell you about the events of that day.
12 He's going to tell you about those two men that
13 walked up to him. He's going to tell you that
14 where this occurred was right near lights. There's
15 a street light on that street. He got a good look
16 at both of the individuals who robbed him. He got
17 a good look at Jamar Brown, the one who put that
18 gun to his head. And he got a good look at the
19 other one. And he's going to tell you that that
20 second person was this defendant seated right here.

21 He talked to the police about this case. The
22 police developed suspects. And he identified
23 Jamar Brown and this defendant right here in a
24 photo lineup. That's the beginning and the end of
25 it. There's some other things that are going to

1 come out during in the course of this case, and
2 we're going to allow -- that's -- that's the
3 victim's version of the story. That's what he's
4 going to tell you that happened on that day.

5 Members of the jury, we want you to keep an
6 open mind and listen to all of the facts in this
7 case. We want you to listen closely to the State's
8 case and listen closely at the defense case.
9 Issues that you're going to have to consider in
10 this case are going to be identity. And you're
11 going to have to determine the credibility of
12 witnesses in this case. And we want you to think
13 close about the credibility of witnesses in this
14 case. Who's telling the truth? Who's not? And
15 who has motive to not tell the truth? Thank you.

16 **THE COURT:** Mr. Hartley?

17 **MR. HARTLEY:** Thank you, Your Honor.
18 Thank you, counsel.

19 Members of the jury, I have a -- I think I'll
20 call it an abbreviated opening statement in this
21 case. I appreciate what Ms. Perkins has told you,
22 but I believe that she has a weak case to present
23 today. I'm going to just address what she has said
24 about what Mr. Copeland will testify about. And
25 I'm going to tell you that there's something

1 suspicious about Mr. Copeland's testimony.

2 And it will work its way to this case this
3 way. I believe his testimony will be that he and
4 this person were out relatively late. I think it
5 was almost midnight or sometime between ten and
6 midnight when this allegedly occurred. And the
7 location is somewhere out there by -- near the
8 apartments out there -- I'm trying to think of the
9 name of that street that they're on, but I can't
10 recall at the moment. But, anyway, Mr. Copeland
11 gave a statement to the police on April the 10th of
12 2002, trying to give a specific statement to the
13 police to help them in the investigation so that
14 they could, you know, resolve this matter and do
15 something and to solve this alleged robbery. He
16 never told the police what that person's name was
17 that was with him. Identified him as a
18 thirteen-year-old male and just calls him my
19 friend. If he is his friend and is sort of close
20 enough with him to be wandering around out there --
21 and, by the way, Mr. Copeland is twenty-eight years
22 old and this other person is supposed to be about
23 thirteen. And, as you heard from the District
24 Attorney, this person was supposedly part of the
25 victim of the robbery, according to Mr. Copeland's

1 claim and -- that Kourtney Greenwood was out there
2 committing the robbery. And he's such a
3 brilliant -- I mean, such a good observer. He saw
4 a good view of Jamar Brown and got a -- who was
5 holding a gun in his face. And, at the same time,
6 they will identify a second person, who was some
7 distance away, but not with a gun pointed in his
8 face, who he claims is Kourtney Greenwood. But he
9 can't even tell you the name of his friend that was
10 out there. There's something suspicious about this
11 whole thing.

12 But let me tell you what else is wrong with
13 this matter. On April the 18th of this year, he
14 tried to do a -- an identification in a
15 photographic lineup of whom the third -- I mean,
16 the second subject was supposed to be, not
17 Jamar Brown, not the person who had a gun pointed
18 in his face, but this person who is over to the
19 side doing something else. And he was down at the
20 police station looking at some pictures. And he
21 said, Yeah, I can tell you what he looked like.
22 This man -- the second person had twists in his
23 hair. The identifying characteristic were twists
24 in his hair. We're going to have several forms of
25 evidence that will show that that is a way he

1 has -- he has never worn his hair like that in his
2 life, wasn't wearing his hair like that at the
3 time. And if that is the outstanding
4 characteristic that he identified him by, then he's
5 dead wrong. That's what -- the State -- that's
6 what's going -- basically, undermined any theory
7 the State has that they've got proof beyond a
8 reasonable doubt that Kourtney Greenwood was
9 involved in this case.

10 So, you're going to find -- and not only --
11 and the District Attorney asked you to listen to
12 the defense side of the case closely. Well, I
13 appreciate that. Because that -- sometimes we say
14 things like that. And we want you to listen to her
15 side of the case or their side of the case. And I
16 want you to listen to our side of the case. But I
17 want you to listen to what we just suggested to
18 you, that his identification is weak at best and,
19 in fact, it is in error. And I think that you'll
20 find that Mr. Copeland's testimony comes out
21 doubtful and suspicious at best.

22 And, for that reason and many other reasons,
23 we'll argue to you at the close of this case, we
24 submit that this is a case where Mr. Greenwood
25 should be found not guilty. There is a presumption

1 of innocence, which rises to the level of evidence
2 in this case. I ask you to keep that presumption
3 of innocence in mind and don't make any judgment
4 about guilt or innocence until you've heard all the
5 evidence and until you've heard the jury charge,
6 when the Judge will give you perimeter of the law
7 that you're supposed to follow -- not just suppose
8 to follow, you're under oath to follow. And I'll
9 ask you to follow that oath and apply the
10 presumption of innocence and the burden that the
11 State has to prove anybody guilty beyond a
12 reasonable doubt and find Kourtney Greenwood not
13 guilty. Thank you.

14 THE COURT: Are you ready with your
15 first witness?

16 MS. PERKINS: Yes, Judge. State of
17 Alabama calls Larry Copeland, Jr.

18 THE COURT: And if you'll raise your
19 right hand?

20 LARRY COPELAND, JR.

21 The witness, having first been duly sworn or
22 affirmed to speak the truth, the whole truth, and
23 nothing but the truth, testified as follows:

24 DIRECT EXAMINATION

25 BY MR. PERKINS:

1 Q. Let me pull this microphone up to you so
2 everybody can hear you. Okay?

3 A. Okay.

4 Q. Tell us your name.

5 A. Larry Copeland, Jr.

6 Q. Larry, where are you from?

7 A. Montgomery, Alabama.

8 Q. Have you lived here all of your life?

9 A. Not all my life. I mean, basically, but
10 not all my life.

11 Q. Okay. But you are living here now?

12 A. Yes.

13 Q. Okay. How old are you?

14 A. I'm not twenty-eight. I'm twenty-nine.

15 Q. Twenty-nine?

16 A. Twenty-nine, yeah.

17 Q. Did you just recently turn twenty-nine,
18 why you're saying it like that?

19 A. Um, July 12th.

20 Q. All right. I want to take you back to
21 April 18th of 2002. Okay?

22 A. Okay.

23 Q. Were you in Montgomery on that day?

24 A. Yes, ma'am.

25 Q. Do you remember that day?

1 A. I remember clearly.

2 Q. Okay. Something significant happened to
3 you that night; is that right?

4 A. Yes, it did.

5 Q. Where were you immediately before this
6 incident happened?

7 A. Immediately, I had went by my dad's
8 house, you know, to see if he was at home and see
9 if I could check on my son or whatever. And then I
10 came back to my cousin's house, which is on -- off
11 Virginia Loop Road right around Raintree Drive, and
12 I proceeded to walk.

13 Q. Okay. Where were -- you said you
14 proceeded to walk?

15 A. Uh-huh. I wasn't driving, so I walked.

16 Q. Okay. Are these -- all these streets
17 you're talking about, they're -- are they --

18 A. They're in the same neighborhood.
19 They're right connected and everything.

20 Q. Okay. So it's literally like you're
21 walking around the block?

22 A. Yes.

23 Q. You said you proceeded to walk. Where
24 were you going?

25 A. I was going to Stonebridge Apartments

1 over there by -- there's a friend over there that I
2 knew and Serillo said that he knew exactly where
3 she stayed, but I -- we was going -- I went over
4 there, and I didn't see her car, you know, so we
5 just walked around and talked to other friends that
6 we had talked to a little while earlier, you know,
7 saying a couple few minutes, so we just walked
8 around there. And before we got to it, that's when
9 the incident --

10 Q. Let me stop you for a second. You
11 said -- did you mention that someone was with you?

12 A. Yes.

13 Q. Okay. Who is it that was with you?

14 A. Serillo.

15 Q. What's his name again?

16 A. Serillo.

17 Q. Sherillo?

18 A. Serillo.

19 Q. Serillo?

20 A. Yeah.

21 Q. Okay. Who is he?

22 A. He's -- I know his mom and sister real
23 well, you know. He's like twelve, thirteen years
24 old. And, um, he's like -- he's a young kid, you
25 know. And, you know, sometimes he be with me. He

1 moved on the block with my cousin, so sometimes I
2 come over there -- I be at my cousin's house all
3 the time, so he comes down there and he hang out,
4 watch TV, whatever. We might shoot a little
5 basketball or --

6 Q. Okay. So, were you around -- were you
7 near his -- his mother's -- were you at his
8 mother's house when you left to go somewhere else?

9 A. No. I was at my cousin's house. And his
10 mom's house is right --

11 Q. All right.

12 A. -- about four houses down the street.

13 Q. Okay. That's what I wanted to get out.
14 So his house is right --

15 A. Yeah.

16 Q. His house is right there?

17 A. Yeah.

18 Q. So he was out in the neighborhood?

19 A. Yeah, he was out in the neighborhood.

20 Q. Okay. Now, what time was it when you
21 were -- when all this happened?

22 A. It was about 11:00, 11:30, somewhere
23 around that time. I asked him what he was doing
24 out that late, and he said my mom ain't home. I
25 said, Well, you can hang with me for a couple

1 minutes, then you get on home and go to bed.

2 Q. Okay. So you took him with you?

3 A. Yeah, I took him with me.

4 Q. All right. Now, did you all make it to
5 your final destination?

6 A. Well, actually, I didn't see her car over
7 there, and I didn't see my cousin's car at his
8 house, so I said, We'll just walk around, you
9 know --

10 Q. And go back --

11 A. -- go back wherever.

12 Q. Okay. Now, did you make it back to the
13 house where y'all -- where y'all came from?

14 A. No. We just kept on around the circle,
15 coming on around or whatever. But I never made it
16 back.

17 Q. What happened?

18 A. I was walking -- and I didn't really see
19 anybody, but I was walking, and I -- next thing I
20 know I heard somebody walking behind. I looked
21 over my shoulder and they was just walking. By the
22 sights on their faces, I could tell that they were
23 up to something --

24 MR. HARTLEY: Objection, Your Honor,
25 to what he could tell.

1 THE COURT: Okay. Sustained. Just
2 what happened. What you saw. And disregard that
3 last remark.

4 A. Okay. Walking at a fast pace and
5 approaching, and I knew that it wasn't right from
6 that situation, so I slowed down --

7 THE COURT: Let me ask. Can you
8 slow down just a little bit? She has to take
9 everything down.

10 THE WITNESS: I'm talking to fast?
11 Okay.

12 Q. Okay. Let me stop you and ask you some
13 more questions. Okay?

14 A. Okay.

15 Q. To kind of walk you through this. Okay?

16 A. Okay.

17 Q. Now, you said someone -- someone called
18 out to you?

19 A. Uh-huh, someone called out to me.

20 Q. Okay. What did they say?

21 A. They said, Hey, so I turned around --
22 that's when I turned around. Before I turned
23 around, I told Serillo, I said, something is
24 getting ready to happen. I said, Don't panic.
25 Whatever you do, Don't panic. I said, Something is

1 getting ready to happen.

2 Q. Okay. So what happened after that?

3 A. So that's when they were like, Do you
4 know a place where we can enter across the street
5 to go to the apartments? And, from that point
6 then, I knew that it was already -- you know, ruled
7 out the benefit of the doubt that something is not
8 right, because the apartments across the street, of
9 course you know there's going to be an entrance
10 where you can go into an apartment. It's not a
11 prison, you know. So I immediately knew then that
12 someone was up to something. Common sense, you
13 know.

14 Q. So what did you do?

15 A. What I did? I hesitated, because I know
16 he was going to rob or had a gun or something. I
17 didn't want --

18 MR. HARTLEY: Objection, Your Honor.

19 THE COURT: Sustained.

20 A. I didn't want --

21 Q. Wait. When she says --

22 THE COURT: Wait. Wait. When he
23 objects, don't keep testifying. I'm sustaining
24 your objection.

25 MS. PERKINS: Okay.

1 THE COURT: And disregard the last
2 comment.

3 Q. Tell us what you did.

4 A. What I did?

5 Q. Uh-huh.

6 A. I paused.

7 Q. You paused?

8 A. I paused.

9 Q. Okay. What happened after you paused?

10 A. After I paused, they walked up on me or
11 whatever. I tried to ask a question, walking back
12 from them, but I seen that he kept approaching me.
13 So I said, I'm not going to run to provoke
14 anything, so --

15 Q. So you stopped?

16 A. So I just completely stopped.

17 Q. Okay. Now --

18 A. Because I had him with me, you know.

19 Q. -- how many people was it that were --
20 that were approaching you?

21 A. It was two.

22 Q. It was two. And you're sure about that?

23 A. Yeah.

24 Q. Okay. So two people came up. Did both
25 of them come and approach you?

1 A. Both of them came and approached me.

2 Q. All right. Now, tell us what happened
3 once you stopped and they came up to you? And I
4 want you to go slow here and go into detail. First
5 of all, where were you? Were you on the sidewalk
6 or in the street?

7 A. I was on the sidewalk, like, right next
8 to the street. Not too far -- like a couple feet
9 from the street light or whatever.

10 Q. Okay. So you could see these individuals
11 as they came up to --

12 A. Very clear.

13 Q. Very clear?

14 A. Very clear, ma'am.

15 Q. Okay. So two people come up to you.
16 Tell us what happens at that point.

17 A. They walked up on me or whatever. I
18 noticed that -- the clothes he had on, so I paused
19 or whatever. And --

20 Q. You say he. Which he are you talking
21 about?

22 A. This was Jamar.

23 Q. Okay.

24 A. Okay. And then once Jamar separated me,
25 the other guy start smiling or laughing or

1 whatever. And he went and held the boy and said,
2 Don't move.

3 Q. All right. Let me walk you through that
4 for a second. Because, um, there's a difference up
5 there, you've got to tell the members of the jury
6 stuff.

7 A. Okay.

8 Q. I've got to walk you step by step by
9 step.

10 A. I understand.

11 Q. And I want you to make sure you explain
12 it to these people, because they have to understand
13 exactly what it is that you're saying.

14 A. Yeah.

15 Q. Okay. Step-by-step. All right?

16 A. Okay.

17 Q. Okay. So two people came up to you. You
18 mentioned Jamar's name. How did you distinguish
19 Jamar from the other person?

20 A. How did I distinguish?

21 Q. Yeah. What was -- what did he do?

22 A. Basically his clothes. And then I seen
23 his face clearly, you know, so I seen his face
24 clearly.

25 Q. Okay. So when Jamar came up to you, what

1 did he do?

2 A. He pulled his gun out, cocked it back,
3 and stuck it to me, and told me --

4 Q. Wait. When you say stuck it to you,
5 do -- I mean, did he stick it to your foot?
6 Where --

7 A. He stuck it to my head.

8 Q. He stuck it to your head?

9 A. Yeah. And then when cars started
10 passing, he just stuck it to my chest.

11 Q. Was he standing in front of you?

12 A. Standing directly in front of me. Then
13 he stood to the side of me and put it to my chest
14 and he started --

15 Q. So he's in front of you like this. And,
16 at first, he has it to your head?

17 A. Uh-huh.

18 Q. And then when a car starts passing, he
19 puts it to -- he puts it to your side?

20 A. Yeah. Yeah, he puts it to the side, like
21 this.

22 Q. Okay. All right. What is he saying to
23 you while all of this is happening?

24 A. And he's saying, Fuck, Nigger, give it
25 up.

1 Q. Okay.

2 A. So I said, okay. I'll give it up.

3 Q. What was the second person doing?

4 A. The second person was doing -- looking
5 out, and saying, Man, these cars are coming. These
6 cars are coming, telling the little dude don't move
7 or whatever, you know what I'm saying.

8 Q. When you say he was telling him this, was
9 he near the young man?

10 A. He was right in front of the young man.
11 He had put his hands up, because he said, Are you
12 going to kill us?

13 Q. The young man said, Are you going to kill
14 us?

15 A. Yeah. He said, Are you going to kill us?

16 Q. What did -- and explain to -- I want you
17 to explain to the members of the jury what the
18 second person was doing. Was he holding him?

19 A. At first, he had him by his clothes. He
20 just held him by his clothes, and then he just
21 stood in front of him like this, and said, Don't
22 move. He just stood in front of him.

23 Q. He just stood in front of him?

24 A. Yeah.

25 Q. You said like this. Stand --

1 MS. PERKINS: Judge, may I have him
2 to stand up to demonstrate, please?

3 THE COURT: Sure.

4 THE WITNESS: (Witness complies.)

5 Q. I have to get you to walk through this,
6 because you're just talking like we know what
7 you're talking about. So when you say stood in
8 front of you --

9 A. You're the younger guy.

10 Q. I'm the young guy. Tell -- show them
11 what --

12 A. As he grabbed him like this, and then he
13 stood in front of him like this. Don't move,
14 whatever. And then the other -- the other dude put
15 his hands up --

16 Q. Made sure you talk to them.

17 THE COURT REPORTER: Well, I've got
18 to hear too, and you're talking low.

19 MS. PERKINS: Okay.

20 A. Then the other dude put his hands up and
21 said, Are you going to kill us?

22 Q. Then what happened?

23 A. Then Jamar said he was going to kill --

24 THE COURT: Do you still need him
25 down?

1 MS. PERKINS: Um, I think he's about
2 to demonstrate something else.

3 Q. Did something else happen after that
4 point or did he let y'all go?

5 A. No. After he robbed me and everything,
6 you know, I started walking away or whatever.

7 Q. Okay. You can sit back down. We're
8 going to walk through that.

9 A. (Witness complies.)

10 Q. So Jamar has a gun to your head. The
11 second guy is standing in front of him, restraining
12 the young guy; is that right?

13 A. Yes.

14 Q. Okay. Now, go on and finish telling us
15 what happened after that.

16 A. Then after that, the young dude said, are
17 you going to kill us or whatever? And I guess
18 someone was like, Um, we don't know yet or
19 whatever. And Jamar is like, Yeah, I ain't going
20 to kill. I'm just going to put you to some
21 eternity sleep. I was like Okay. I said, if you
22 want to rob or whatever, I said, you go ahead if
23 you think --

24 Q. Slow down. Slow down. He said -- Jamar
25 said what to you?

1 A. Yeah. I said, Was you going to kill me?
2 And he said, Um, then I'm going to put you to --

3 Q. Wait. Wait. He said --

4 A. -- put you to --

5 Q. Wait. Wait. I need you, literally, to
6 slow down.

7 A. Okay.

8 Q. Slow real, real, real slow.

9 A. Okay.

10 Q. Okay. Now, Jamar said what?

11 A. Jamar said -- I asked him, Was he going
12 to kill. I said --

13 Q. You asked him was he going to kill you?

14 A. Uh-huh.

15 Q. All right. I mean -- or the young boy
16 asked him that?

17 A. Yeah.

18 Q. What did Jamar say?

19 A. He turned to me, he said -- I was, like,
20 Are you going to kill us? I said, Don't kill him.
21 I just told him, I said, Don't kill him. Just do
22 me. Let him go. You know what I'm saying?

23 Q. Okay.

24 A. And, after that, he was, like, um, um --
25 like he was uncertain if he was going to kill me or

1 not. He said that he was going to put me in
2 eternity sleep.

3 Q. He was going to put you in eternity
4 sleep?

5 A. Yeah, eternity sleep. Eternity, you
6 know, I guess --

7 Q. Okay. All right. And then what -- what
8 did you say?

9 A. I was, like, if it makes you feel like a
10 man, go right on ahead. I said, Just leave the
11 little young kid alone. I said, Don't bring him in
12 this. I said, This is enough right here, you know.

13 Q. Okay. And what was the second guy doing
14 while this conversation was happening with you and
15 Jamar? Was he still holding that little boy?

16 A. Yeah, he was still holding the little
17 boy. And he was, like, Man, these cars are coming,
18 Man. Man, all these cars keep coming by. You got
19 that gun out, Man.

20 Q. Okay.

21 A. So that's --

22 Q. Okay. Now, I want to talk about that
23 second individual.

24 A. Okay.

25 Q. You said, you were near a street light?

1 A. Yeah, we were near a street light.

2 Q. Did you get a good look at that second
3 individual?

4 A. Got a very good look at him.

5 Q. All right. Did you get a good look at
6 his face?

7 A. Got a good look at his face.

8 Q. Um, as well as other features --

9 A. As well as other features. But,
10 basically, I just remember the face, you know.

11 Q. Okay.

12 A. Okay.

13 Q. Now, was there something significant that
14 you remember about his hair?

15 A. I remember something significant about
16 his hair.

17 Q. Okay. What was that?

18 A. It was twisted.

19 Q. Okay. It was twisted?

20 A. Yeah. Can I say something else?

21 MR. HARTLEY: Objection, Your Honor.

22 Q. It was twisted?

23 A. Uh-huh.

24 Q. Okay. Was he -- was he light skin? Was
25 he my -- your complexion or was he darker than us?

1 A. It was darker than us -- both of us put
2 together.

3 Q. All right. Now, what -- what did this --
4 what did he have on?

5 A. What did he have on?

6 Q. If you can remember.

7 A. Yeah. He had, like, some shorts on or
8 whatever. He had, like, a shirt that comes over --

9 Q. Make sure you speak in the microphone.

10 A. He had a shirt that came right past his
11 belt. And he had something written across it. I
12 don't know if it was Pele Pele or Girmaud or -- I
13 know he had a shirt on.

14 Q. Okay. And Pele Pele and Girmaud are both
15 names of clothing that you --

16 A. Yeah, clothing.

17 Q. Okay. All right. At some point -- okay.
18 Did you call -- did they leave you or did -- what
19 happened after they --

20 A. Well, after then, they left me, you know.
21 And --

22 Q. And what did you do?

23 A. I said, Don't run. I asked him to give
24 me my wallet and my I. D. I said, you can keep my
25 phone with you, you know what I'm saying. I said,

1 Just give me my wallet. You can keep the money,
2 but just give me my I. D., but he wouldn't drop it.
3 He wouldn't do nothing. He just kept taking it.
4 And then he pointed the gun at me and said, Shut
5 up.

6 Q. Okay. So did you see them leave?

7 A. So that's what I did, started walking,
8 like, I was leaving. And then I went back and
9 circled around and watched them get into a red
10 S-10 --

11 Q. You saw them get into a red S-10?

12 A. Yeah, crimson color.

13 Q. Okay. What did you do after they left?

14 A. What I did after they left, I seen them
15 pull off, whatever. Both criminals were inside the
16 truck. I went to my cousin's house and called the
17 police on the phone and went back to the area where
18 we was at.

19 Q. So you went and called the police and
20 went back and waited for the police?

21 A. Yeah.

22 Q. Okay. Did the police come?

23 A. Yeah, the police came.

24 Q. Did you tell them what happened?

25 A. I told them exactly what happened.

1 Q. Now, at some point, the police developed
2 suspects; is that right?

3 A. Yeah, at some point --

4 Q. Okay.

5 A. -- but, at that point, they --

6 Q. At that point, they didn't know --

7 A. He just wanted to know my statement. He
8 didn't want nothing from the little boy. He just
9 wanted my statement.

10 Q. Okay.

11 A. Because he said I was the victim
12 completely, you know.

13 Q. Okay. But they developed suspects at
14 some point; is that right?

15 A. Yeah, at some point, they developed
16 suspects.

17 Q. Did they bring you back a photo lineup?

18 A. They brought me back a photo lineup.

19 Q. Okay. Did they bring you back a photo
20 lineup, one, of the first person and one of the
21 second person?

22 A. First person, then the second person,
23 yeah.

24 Q. Did you identify both of these people in
25 the photo lineup?

1 A. Straight off, yes, I did.

2 Q. Okay. And the first person that you
3 identified was Jamar Brown?

4 A. Jamar Brown.

5 Q. Okay. Do you see the second person that
6 robbed you and that you identified in that photo
7 lineup in the courtroom today?

8 A. He's in the courtroom today.

9 Q. Can you, please, identify him for the
10 ladies and gentlemen of the jury?

11 A. There he is right there.

12 Q. Can you, please, state what he has on?

13 A. He has on black shoes, tan -- khaki,
14 light pants and a white shirt.

15 MS. PERKINS: Okay. Let the Record
16 reflect that the victim has identified the
17 defendant today.

18 Q. And this did take place here in
19 Montgomery County; is that right?

20 A. This did take place in Montgomery.

21 MS. PERKINS: Nothing further at
22 this time, Judge.

23 THE COURT: I think this will be a
24 good time to take a break. I'm going to give you
25 until 1:30. We'll get you in the jury assembly

1 room at 1:30. And, again, caution you not to
2 discuss the case. Okay. You're excused until
3 1:30.

4 (Out of the presence of the jury.)

5 MR. HARTLEY: Two issues, Judge.
6 Judge, at this moment -- at this point, we would
7 like to ask that the Court allow the court reporter
8 to transcribe Mr. Copeland's testimony from the
9 trial on October the 29th --

10 THE COURT: Well, what part? I
11 mean --

12 MR. HARTLEY: It appears -- my
13 recollection of the testimony is he never
14 identified the second person, the thirteen-year-old
15 in that testimony. And we want to be able to -- if
16 he -- if he -- we're going to question him as to --

17 THE COURT: Well, he hadn't -- I
18 don't think --

19 MS. PERKINS: He did say the name of
20 the young man at the other trial.

21 THE COURT: I don't think he did.

22 MR. HARTLEY: I don't think he did.
23 And he was very vague --

24 MS. PERKINS: What did --

25 MR. HARTLEY: -- and today he

1 said --

2 THE COURT: Wait. Wait. Now, don't
3 all talk at one time.

4 MR. HARTLEY: -- that I thought --

5 THE COURT: What are you saying that
6 he said today that's in conflict with the prior
7 testimony?

8 MR. HARTLEY: I believe it is, Your
9 Honor. And I didn't hear what he said today. I
10 think he said the man's name was Torillo or
11 something of that effect. I didn't quite get it
12 even.

13 THE COURT: I didn't either. I
14 couldn't hear.

15 MS. PERKINS: He said, Serillo.

16 THE WITNESS: I think you spell
17 it -- you know how --

18 THE COURT: Wait just a minute. Did
19 you identify the young man with you, today, as
20 being Serillo?

21 THE WITNESS: Yeah.

22 MS. PERKINS: Yes, he did.

23 THE COURT: Well, you know -- and
24 it's going to take a lot longer. His testimony was
25 probably similar to what it is now as far as --

1 MR. HARTLEY: Difficult?

2 THE COURT: And --

3 MR. HARTLEY: But we do have that
4 matter coming up at 1:00 or 1:30, so I'm hoping --

5 THE COURT: Well, she might want to
6 have a short break. And I can assure you it's
7 going to take a little while. But you have the
8 right to have it.

9 MR. HARTLEY: Right. And I -- and
10 that portion is all we really want is where we
11 talked about the name of the child. I mean, that
12 wouldn't be -- I would like the whole thing, but if
13 she can only get that --

14 THE COURT: Okay. If you would look
15 at that, and then see what's there.

16 MS. PERKINS: Judge, maybe if she
17 looks at it and sees that he did give the name of
18 the child, then we may not need it. I don't
19 know -- unless.

20 MR. HARTLEY: I'll get with her.

21 The second thing is, is we have been -- we're
22 aware of, in the file, a photo lineup. We've never
23 seen the photo lineup. We hope they have it
24 available today to see what pictures they used to
25 identify him from. Have you got that today?

1 MS. PERKINS: Uh-huh.

2 MR. HARTLEY: Okay. We would like
3 to see that before lunch.

4 MS. PERKINS: I don't know if I can
5 produce it before lunch. The case agent has it. I
6 mean, I'll have it when I get back. I don't know
7 if it will be at your convenience, but we will have
8 it to produce into --

9 THE COURT: Why don't you try to get
10 the case agent here early?

11 MS. PERKINS: Yes, I will.

12 MR. HARTLEY: Thank you.

13 (Lunch recess was taken.)

14 MS. PERKINS: Ms. Mary, were they in
15 the same holding cell.

16 THE BAILIFF: No.

17 THE COURT: Mr. Hartley, what do you
18 need to put on Record?

19 MR. HARTLEY: Judge, present are my
20 client, of course, Judge, Kourtney Greenwood and
21 Mr. Brown. Mr. Brown has already pled guilty to
22 robbing Larry Copeland. I think that happened
23 roughly ten days ago. I don't remember the exact
24 date, but Mr. Durant is his attorney. I -- not
25 having been here, I did not under -- I did not hear

1 what he said about the robbery -- or if I did, I
2 may have been in and out of the courtroom or -- I
3 don't have a record of it.

4 However, when I met him in the jail this
5 morning about his possibly of being a witness, he
6 told me that he could testify and it would be
7 beneficial to my client. Now that he's over here
8 this afternoon, prepared to be a witness, he has
9 expressed his reluctance to testify, because he
10 believes it might be detrimental to his sentencing
11 hearing, which is scheduled for tomorrow morning or
12 Thursday morning?

13 MR. DURANT: Thursday.

14 MR. HARTLEY: Thursday morning.

15 Then, I -- in our general conversations back there,
16 Mr. Brown said that he had already told the
17 District Attorney's office -- he used that
18 language -- that he didn't know Kourtney Greenwood
19 and that Kourtney Greenwood was not involved. And
20 it sort of came out that he, not only had made that
21 representation to the DA's office, but that he had
22 said something to this effect in his colloquy for a
23 guilty plea.

24 THE COURT: I don't recall. I guess
25 we'll have to look that up also.

1 MR. HARTLEY: They might remember.
2 No one seems to have a recollection. We've already
3 asked.

4 MS. PERKINS: Judge, may I interject
5 for one second? I don't know whether or not -- and
6 if Mr. Hartley is wishing to see this, we will have
7 to look it up. But Mr. Durant and myself, both,
8 remember me asking him, Did he know
9 Kourtney Greenwood --

10 THE COURT: I don't remember.

11 MS. PERKINS: -- and he -- I told
12 Mr. Hartley -- and I said it to him in front of
13 him -- that he indicated to myself and to his
14 attorney -- I think it was in front of the Court.
15 I don't know -- that he did not know him, which is
16 why the State is not calling him, because we have a
17 case without him.

18 Now, if Mr. Hartley wants to use him and he
19 does not wish to testify, that's something they
20 have to work out. If he wants to get that plea and
21 he actually said it on the Record, then, of course,
22 Mr. Hartley can use that, you know, in --

23 THE COURT: Well, I don't recall.
24 And it would certainly have to be --

25 Meridith, I don't know whether you were

1 here -- who took it. He pled on November 21st.

2 One other matter, Ms. Newman, during lunch,
3 typed up the testimony of the victim. Now,
4 Mr. Hartley, there was no excuse until waiting
5 while we're in trial to ask for that. Of course,
6 you're entitled to it. And I don't want something
7 to come up later on, so I -- she's done it. But
8 that is inexcusable. You've had two months to
9 request it. And you certainly knew he was going to
10 testify.

11 MR. HARTLEY: I admit that, Judge,
12 and I apologize. I thought I had detected a
13 different --

14 THE COURT: Whenever we get the jury
15 back after the case is over, I'm telling them all
16 the reasons for the delay.

17 So, will you go see if you took it?

18 THE COURT REPORTER: I don't think I
19 did, Judge, but I'll check.

20 MS. PERKINS: And, just for the
21 Record, before she moves, the issue that
22 Mr. Hartley was raising in that statement, he did
23 mention to me that the young man, Serillo's name,
24 in the transcript, and it is listed in there.

25 THE COURT: Okay.

1 (Brief recess was taken.)

2 THE COURT: Let the Record show that
3 at Mr. Hartley's request, the court reporter
4 transcribed the prior testimony of the victim and a
5 copy has been provided to both defense counsel and
6 State counsel. And so it's available to be used
7 however anyone wants to.

8 And the court reporter who took down the
9 co-defendant's plea is in the process of having it
10 transcribed and a copy will just be marked as Court
11 Exhibit A.

12 MR. HARTLEY: Thank you, Judge.

13 THE COURT: Here is a copy of it.
14 And Ms. Perkins stated the State's evidence would
15 show that Mr. Brown, along with co-defendant,
16 Kourtney Green, approached the victim -- go off the
17 record just a minute.

18 (Off the record discussion.)

19 THE COURT: -- and he admitted that
20 that's what happened. And, you know, the State's
21 offer of proof was that he was with
22 Kourtney Green -- it said Green. It should have
23 been --

24 MR. HARTLEY: Judge, I've been
25 through many, many pleas like this and the Court

1 has to, and I believe that he may have intended
2 to --

3 THE COURT: Well, you can certainly
4 call him as a witness. But that is the transcript.

5 MR. HARTLEY: Thank you, Judge.

6 THE COURT: And -- okay. Can we get
7 the jury?

8 MS. PERKINS: Judge, before we do
9 that, can I see what his plans are, if he's
10 planning to do that, then I need a --

11 Are you planning to use that?

12 MR. HARTLEY: I don't know yet. I'm
13 going to try --

14 MS. PERKINS: Well, if you are, I
15 need a copy of it.

16 THE COURT: Well, y'all can each
17 share the copy. It's a Court Exhibit. It's not
18 very lengthy.

19 MR. HARTLEY: I'm fixing to hand it
20 to you.

21 MS. PERKINS: Okay. If you're not
22 going to use it, it's not --

23 MR. HARTLEY: I can't say yes or no.

24 THE COURT: When the jury gets to
25 the door, they're coming in no matter who's saying

1 what. Okay. Ms. Perkins, what do you want to say?

2 MS. PERKINS: Judge, I want to make
3 sure I understand. I don't want to have to get in
4 the middle of trial and have to stop again to make
5 an objection. If Mr. Hartley is going to use this
6 testimony to call Mr. Brown to the stand to testify
7 consistent with what's on this page, then the State
8 does not have a problem with that. But I think
9 Mr. Hartley -- I heard Mr. Hartley, correctly, what
10 he was just saying to me, that I don't think he
11 understood what he was saying right here. And --

12 THE COURT: Well, he can ask him
13 that.

14 MS. PERKINS: He can call him to the
15 stand to clear up what he said in a prior
16 statement?

17 THE COURT: And it might cause a
18 problem down the road --

19 MS. PERKINS: Well --

20 THE COURT: Okay. Are the jury --

21 MR. DARNIELLE: (The law clerk
22 nods.)

23 THE COURT: Okay. The jury is here.
24 He's not going to be the next witness. Let's get
25 the jury in. I'll get to that in a minute.

1 (In the presence of jury.)

2 THE COURT: You can be seated. And
3 when the matter is over, I'll give you some
4 explanation, maybe, for the delay. And I think the
5 State had finished questioning.

6 MS. PERKINS: Yes, ma'am. And we
7 will instruct the witness to go back to the witness
8 stand.

9 THE COURT: Okay. And I'll just
10 remind you that you're still under oath.

11 LARRY COPELAND, JR.

12 The witness, having been reminded that he was
13 duly sworn or affirmed to speak the truth, the
14 whole truth, and nothing but the truth, testified
15 as follows:

16 CROSS-EXAMINATION

17 BY MR. HARTLEY:

18 Q. Mr. Copeland --

19 A. Yes.

20 Q. -- this all took place on the date of
21 April the 10th of 2002; is that right?

22 A. Correct.

23 Q. Do you remember what day of the week that
24 was?

25 A. I don't remember the exact day or

1 whatever, but what the day was -- I know I got
2 robbed.

3 Q. Okay. Well, do you remember whether it
4 was, like, a Tuesday night?

5 A. I think it was a Tuesday night.

6 Q. Okay. It certainly wasn't a weekend
7 night, was it?

8 A. I can't really recall what night. I just
9 know what I know. It's been a while.

10 Q. If I suggest that I found in the record
11 that it took place on a Tuesday, would you agree
12 with that?

13 A. I really can't remember exactly what day
14 it was. I can't remember, you know -- I --

15 Q. Excuse me?

16 A. It's not like I was trying to keep track
17 in my mind of a day like that. When something goes
18 wrong like that --

19 Q. Well, let me ask you this question then.
20 Do you remember on that day that you were robbed,
21 do you remember whether you worked that day or not?

22 A. Do you remember if I worked that day or
23 not?

24 Q. Right.

25 A. No -- I mean, no. I just got off the ice

1 cream truck, but I didn't go to the job that I was
2 currently working at.

3 Q. Wait a minute. I'm not sure I can hear
4 your answer or completely follow it. Tell me
5 whether you say you were working that day or not.

6 A. No. I didn't -- I drive an ice cream
7 truck for my cousin, but I don't -- I wasn't
8 actually employed there. I wasn't actually
9 employed.

10 Q. You didn't have a job then, did you?

11 A. No.

12 Q. Okay. You were, in fact, unemployed?

13 A. Yeah.

14 Q. Okay. So, you -- it wouldn't make -- I
15 mean, that doesn't determine whether it was a
16 weekend day or not?

17 A. No, it doesn't.

18 Q. All right. You have testified today and
19 you said that you were with a person at the time
20 this all took place, right?

21 A. Yes, I was.

22 Q. And we now have the name of that
23 individual as Serillo?

24 A. Serillo.

25 Q. All right. Let me ask you, if you can

1 tell the jury Serillo's last name?

2 A. No. I think Serillo's last name --

3 Q. You don't know who Serillo is other than
4 the first name?

5 A. I know him. But I just don't know his
6 last name. I can't recall his last name.

7 Q. How long had you known Serillo prior to
8 April the 9th of 2002?

9 A. I know I've known him at least eight or
10 nine years almost -- eight or nine years.

11 Q. Eight or nine years?

12 A. Yes.

13 Q. And you can't testify, today, what his
14 last name was?

15 A. I mean, that's not unusual.

16 Q. It's not unusual. Okay. I just want to
17 know if you know or not.

18 A. Okay.

19 Q. Then when you went to the police station
20 and were telling the police -- and I believe you
21 said -- testified earlier that you went down there
22 to tell them exactly what happened, right?

23 A. Yes, I did.

24 Q. Did you make a -- did you tell the police
25 that you were with another person when you gave

1 your first statement to the police on April the
2 10th, 2002?

3 A. I was with another person.

4 Q. And you told the police that, didn't you?

5 A. Yes.

6 Q. But you didn't even tell them his name,
7 did you?

8 A. I didn't think they really wanted to know
9 all that. The police -- the investigation didn't
10 really want to know all that at all. They just
11 said, You're the one that got the merchandise
12 taken from you. You're the one that was actually
13 the victim -- victim here. He just, you know,
14 alongside. He said, I'm not concerned with him.
15 I'm concerned that you -- he took the gun and your
16 life was threatened. Property was taken from you
17 and --

18 THE COURT: Wait. Wait. Slow down
19 just a minute. And don't go any further than
20 necessary to answer it. The State can follow up if
21 they need to.

22 Q. The point I'm making is, wasn't that
23 person also the victim of the robbery?

24 A. Okay, yes he was. But I didn't have no
25 control of who --

1 Q. But wouldn't you have wanted that person
2 to be there -- to be identified in the police files
3 as a witness?

4 A. I mean -- I mean, the police said he
5 wasn't really a character --

6 MS. PERKINS: Objection to what the
7 police said.

8 THE COURT: Sustained.

9 Q. But you know how -- how Courts can send
10 out subpoenas --

11 MS. PERKINS: Objection, Judge. He
12 doesn't know anything about a Court sending out a
13 subpoena.

14 THE COURT: I'm sustaining the
15 objection.

16 MR. HARTLEY: Okay. Then I'll
17 rephrase the question.

18 Q. Have you ever been subpoenaed?

19 A. Yes, I have.

20 Q. Do you know what a subpoena is?

21 A. It's something for people to call you to
22 come to court.

23 Q. Okay. A subpoena could have been sent to
24 Serillo, couldn't it?

25 MS. PERKINS: Objection, Judge.

1 THE COURT: Sustained.

2 A. I didn't want --

3 THE COURT: Wait.

4 A. -- to get him involved --

5 THE COURT: Mr. -- when an objection
6 is made, do not answer. And, certainly, don't keep
7 talking when I'm talking.

8 THE WITNESS: Yes, ma'am.

9 THE COURT: Sustained.

10 MR. HARTLEY: Okay.

11 THE COURT: Move on to something
12 else, Mr. Hartley.

13 MR. HARTLEY: May it just -- I'll
14 ask this question, Judge, and if it's
15 objectionable, I'll withdraw it.

16 Q. Did you ever give them his address?

17 A. His address? I can't really recall. But
18 I told him that the other guy that was with me
19 stayed right down the street from me. I have known
20 him for a long period of time -- known his mom for
21 a long period of time, whatever, that I really
22 didn't want to involve him, because he was young.
23 I didn't want to get him too much involved in this.

24 Q. What -- this person was only about
25 thirteen years old, wasn't he?

1 A. About twelve, thirteen, yeah.

2 Q. But, nonetheless, you had him with you
3 going to a girlfriend's house that night at
4 about --

5 A. Sir --

6 Q. -- 11:30 p.m. on a week night, didn't
7 you?

8 A. Yes, it was. If he was already out on
9 the street, why not let him be with me or whatever.
10 If he's already in the street at that time of
11 night, why can't he go out with me, because I
12 think --

13 Q. Why do you think --

14 THE COURT REPORTER: If you'll slow
15 down, please.

16 Q. Wouldn't it be more prudent to take a
17 young person that age home rather than down the
18 street to your girlfriend's house?

19 A. Okay. Okay. But I can't take him in the
20 house if he's already out like that. I just speak
21 good things to him and try to converse him not to
22 be in the street so much, you know.

23 Q. You couldn't take him home?

24 A. I can't just make him go home like that.
25 He's almost like grown, you know.

1 Q. Okay. Thirteen is almost like grown?

2 A. Okay. Yeah, I'm not his father. I'm not
3 his parent. All I can say is, Hey --

4 Q. But, at the same time, he's almost grown.
5 But you didn't want to have him involved in this
6 matter, did you?

7 A. I hate he got involved in this violent
8 crime like that. I hate I asked him to come --

9 THE COURT REPORTER: You've got to
10 slow down, please.

11 THE WITNESS: Okay.

12 Q. Did you give any description of the
13 person -- the second person that was involved in
14 this in your first statement to the police?

15 A. I told him what the two had on and how it
16 actually happened.

17 Q. You didn't give any description of his
18 face or his height or his weight, or anything like
19 that, did you?

20 A. Uh-huh. I gave the height, basically. I
21 knew the other guy -- the first guy was about
22 around my height. And the second guy was probably
23 a little shorter.

24 Q. And you're saying that was in your first
25 statement to the police?

1 A. Yeah, they asked me approximately or
2 whatever.

3 Q. Did you describe his hair in any way to
4 the police on your first statement?

5 A. Yeah, I told them that he had like twists
6 in his hair, not completely locks.

7 Q. Now, you never had any photograph or any
8 way to identify the second person involved until,
9 approximately, eight days later, did you?

10 A. Whenever they called me -- whenever they
11 called me to the stand -- I mean, to the witness --
12 you know, to the paper or whatever to I. D. it,
13 I -- you know, I made the I. D. of Jamar and the
14 guy sitting out there.

15 Q. But you -- the only way -- I mean, you
16 identified the person in this photo lineup right
17 here, didn't you? You identified the person that
18 you claimed to be the defendant in this case and
19 the person who robbed you -- or not robbed you, but
20 was there at the same time -- you identified him on
21 that photo lineup, didn't you?

22 A. Yes, I did.

23 Q. But when you were making that
24 identification, you said the only difference is the
25 person who robbed me had twists in his hair?

1 A. Yes, I did.

2 Q. So you said that he didn't look like that
3 photograph. He looked different because he had
4 twists in his hair?

5 A. Okay. What I was saying was, I looked at
6 his face. The face is not going to change. The
7 hair, cut it, clip it, dye it. The face is not
8 going to change. I looked at the eyes, eyebrows,
9 and everything --

10 Q. Did you --

11 A. -- and I personally kept my eyes on him
12 because he had that kid there.

13 Q. This was while the gun was being pointed
14 at you, wasn't it?

15 A. Uh-huh.

16 Q. Okay. Now -- but didn't the police take
17 a statement from you at the same time you made the
18 identification of that photo?

19 A. Run it by me again.

20 Q. Run it by you -- okay. The District
21 Attorney's office has provided me a copy of a
22 statement, that purports to be your statement --

23 MR. HARTLEY: Counsel, this is April
24 the 18th statement.

25 Q. It's very short. But this is -- the

1 questions they were asking you about identifying
2 the subject from the photo lineup. And you told
3 them, you said -- they questioned you, they said,
4 "The second subject had twists in his hair?"

5 A. Uh-huh.

6 Q. And you said, "Uh-huh, he had twists in
7 his hair."

8 A. Uh-huh.

9 Q. But now this person doesn't have twists
10 in his hair, does he?

11 A. Of course not. But the face is the same.

12 THE COURT: Now, just answer his
13 questions.

14 A. Okay. No, sir.

15 Q. But that's who you contend is the same
16 person, correct?

17 A. Yes, it is.

18 Q. Okay. Thank you?

19 A. Thank you.

20 Q. What, if anything, did this -- did you
21 say that Kourtney Greenwood said to you that night?
22 Did he say anything to you?

23 A. Well, he basically just -- no, he didn't,
24 not like that, no.

25 Q. He didn't say anything to you on the

1 night of April the 9th, did he?

2 A. Jamar did.

3 Q. The person who actually committed the
4 robbery against you was Jamar Brown?

5 A. Yeah.

6 Q. And you're saying this person never said
7 anything to you, did he?

8 A. No.

9 MR. HARTLEY: Thank you. No further
10 questions.

11 A. Not directly.

12 MR. HARTLEY: No further questions.

13 MS. PERKINS: Nothing further of
14 this witness, Judge.

15 THE COURT: Okay. You can step
16 down.

17 (Witness excused.)

18 THE COURT: Your next witness.

19 MS. PERKINS: State of Alabama calls
20 Detective Buce.

21 THE COURT: If you'll have a seat
22 and raise your right hand.

23 DETECTIVE N. T. BUCE

24 The witness, having first been duly sworn or
25 affirmed to speak the truth, the whole truth, and

1 nothing but the truth, testified as follows:

2 DIRECT EXAMINATION

3 BY MS. PERKINS:

4 Q. Tell us your name.

5 A. Detective N. T. Buce.

6 Q. Detective Buce, where do you work?

7 A. Montgomery Police Department.

8 Q. What do you do at the police department?

9 A. I'm a robbery homicide detective.

10 Q. Okay. How long have you been with MPD?

11 A. Eight years.

12 Q. Eight years. Have you been a detective
13 for all of those eight years?

14 A. No, ma'am. Just a year.

15 Q. How long have you been a detective?

16 A. One year.

17 Q. What shift do you work?

18 A. I work the late car shift right now.

19 Q. Did you work late shift last night?

20 A. Yes, ma'am.

21 Q. Is that kind of why you look a little
22 pale right now?

23 A. Uh-huh.

24 Q. You've been up here all day as well as
25 the jurors, huh?

1 A. Correct.

2 Q. I want to take you back to April 18th of
3 2002. Okay?

4 A. Okay.

5 Q. Were you the case agent on a case where
6 the defendant is Kourtney Greenwood?

7 A. Correct.

8 Q. Okay. Let's explain to the ladies and
9 gentlemen of the jury exactly what a case agent is,
10 okay, and what you do as a case agent?

11 A. Case agent compiles all the evidence and
12 is in charge of the investigation.

13 Q. Okay. Now -- and you learned, during the
14 course of your investigation, that the victim in
15 this case was robbed; is that right?

16 A. Correct.

17 Q. And you took a statement from the victim,
18 and he told you in that statement that two people
19 robbed him?

20 A. Correct.

21 Q. Okay. At some point, did you develop
22 suspects in that robbery?

23 A. Yes, ma'am.

24 Q. Okay. Was one of those suspects an
25 individual named Jamar Brown?

1 A. Correct.

2 Q. Okay. At some point, did you put
3 Jamar Brown in a lineup?

4 A. Yes, ma'am.

5 Q. Did you give that lineup to the victim?

6 A. Yes, ma'am.

7 Q. Did he positively identify Jamar Brown?

8 A. Yes, he did.

9 Q. Okay. Did you -- at some point, did you
10 develop who the second suspect was?

11 A. Yes, ma'am.

12 Q. What was his name?

13 A. Kourtney Greenwood.

14 Q. Okay. Did you put Mr. Greenwood in a
15 photo lineup?

16 A. Yes, ma'am.

17 Q. And is this procedure -- why do you do
18 that?

19 A. We put them in a photographic lineup of
20 five other individuals -- their picture, along with
21 five other individuals, that look similar; height,
22 weight, age, so that we can be sure that we've got
23 the right person.

24 Q. Okay. Now --

25 MS. PERKINS: May I approach the

1 witness, Judge?

2 THE COURT: Sure.

3 MS. PERKINS: This is that photo
4 lineup.

5 MR. HARTLEY: (Attorney nods.)

6 Q. I want to show you what's been premarked
7 as State's Exhibit 1. Do you recognize this?

8 A. Yes, ma'am.

9 Q. What do you recognize that to be,
10 Detective?

11 A. That's the photographic lineup that I
12 compiled of -- depicting Mr. Greenwood number 5.

13 Q. Okay. So you say Mr. Greenwood is
14 number 5 in this particular one; is that right?

15 A. That's correct.

16 Q. All right. Now, there's some other
17 identifying marks on here, aren't -- is that right?

18 A. Yes, ma'am.

19 Q. There's a signature line on there; is
20 that right?

21 A. Yes, ma'am.

22 Q. Whose signature is that right there?

23 A. Mr. Copeland's.

24 Q. Is that the victim in this case?

25 A. Yes, ma'am.

1 Q. Did he sign that in your presence?

2 A. Correct.

3 Q. Okay. And he -- there's a line -- read
4 that line right there for the ladies and gentlemen
5 of the jury.

6 A. The line states, "I have identified
7 picture number" -- and it's got handwritten -- "5
8 as a suspect on" -- and it's got handwritten the
9 date -- "4/18/02."

10 Q. Okay. So Mr. Copeland identified the
11 gentleman in number 5 as the person that robbed him
12 in that case; is that right?

13 A. Correct.

14 Q. Can you tell the ladies and gentlemen of
15 the jury who number 5 is in this picture?

16 A. That's Mr. Greenwood.

17 Q. Okay. Now, I see on this picture -- let
18 me ask you this: Is this picture from April -- did
19 you just take a picture of him at the time -- where
20 did y'all get this picture from?

21 A. No, ma'am. We have a computer that we
22 take pictures of everybody that's taken into
23 custody on anything.

24 Q. Okay.

25 A. And, also, if they've ever been a witness

1 to anything or have been in contact with
2 detectives --

3 Q. So any type of contact with your
4 division, whether it's as a witness, as a
5 defendant, or the victim even --

6 A. Yes.

7 Q. -- on something else, their picture would
8 go into your system; is that right?

9 A. Correct.

10 Q. Okay. Now, you pulled -- when did you
11 pull this picture to go into this particular photo
12 lineup? Would it have been on the 18th?

13 A. I believe the lineup was actually made
14 before -- the day before.

15 Q. Okay.

16 A. I think I made it the night before.

17 Q. Okay. You made it and then gave it to
18 him through --

19 A. Set up an appointment for Mr. Copeland to
20 come in and show him the lineup.

21 Q. Okay. Now, when was this -- was this
22 picture taken at that time or was it taken before
23 or after?

24 A. No. It was taken a while before. I
25 couldn't tell you exactly when it was taken,

1 because the computer doesn't keep up with the dates
2 that it's made.

3 Q. Okay. But this picture would not have
4 been a picture of the defendant on April -- in
5 April of 2002?

6 A. No, ma'am.

7 Q. It would have been a picture of him
8 previously; is that right?

9 A. Correct. It was the most recent one that
10 we had.

11 Q. Okay.

12 A. But it was not made in April.

13 Q. But it was not at that particular time?

14 A. No.

15 Q. But that is him; is that right?

16 A. Correct.

17 Q. And this victim identified him; is that
18 right?

19 A. Yes, ma'am.

20 MS. PERKINS: Judge, we offer
21 State's 1.

22 MR. HARTLEY: No objection.

23 THE COURT: Admitted.

24 (State's Exhibit No. 1 was admitted
25 for identification.)

1 MS. PERKINS: Nothing further at
2 this time, Judge.

3 CROSS-EXAMINATION

4 BY MR. HARTLEY:

5 Q. Detective Bruce -- Buce -- excuse me --

6 A. It's Buce.

7 Q. We've established that you were the case
8 agent in this matter, right?

9 A. That's correct, sir.

10 Q. And you took two different statements
11 from Larry Copeland, Jr. in the course of your
12 investigation, did you not?

13 A. Yes, sir.

14 Q. Do you have copies of those with you?

15 A. No, sir, I don't have them with me.

16 Q. Okay. Would you tell the jury,
17 typically, how you take a witness or a victim in
18 for statement, what the procedures are very
19 briefly?

20 A. When they -- a victim comes to our
21 division, we take them back to our office. They --
22 we do a voluntary statement, which they give to us.
23 We do it on audiotape and record the whole thing.

24 Q. Okay. And I've been in this business a
25 while, and I -- you didn't use the term, but I've

1 heard it a number of times -- a pre-interview.
2 Don't you get some basic information from a person
3 who is going to give you a statement, so you'll be
4 familiar with what they might say and what the
5 subject is and where the inquiry might go?

6 A. We do a witness locator form, get their
7 information and go find out what happened before we
8 take the statement.

9 Q. That's called a pre-interview, isn't it?

10 A. Correct, sir.

11 Q. Okay. And you're gaining sort of the
12 outline or the basic details of what happened, and
13 then you start a recording statement, right?

14 A. Yes, sir.

15 Q. That's so that the recording statement
16 will be somewhat logical and coherent, right?

17 A. So, we'll stay pretty much in order.
18 Because before then, all you have is the report to
19 go by.

20 Q. Now, do you recall -- and I only have one
21 copy with me, but I believe I can give you my copy
22 and let you look at it. I'm going to start with
23 the April 10th statement, which appears to be only
24 four pages long, right?

25 A. Right, sir.

1 Q. Would you take a look at that? Just kind
2 of skim over it and see if that refreshes your
3 recollection that would be Mr. Copeland's statement
4 on April the 10th of that date -- of 2002?

5 A. It looks like it, yes, sir.

6 Q. Okay. You took it. Do you remember that
7 those would be the questions -- is it logically the
8 statement that he gave on that day?

9 A. Yes, sir.

10 Q. Okay. Did you conduct the pre-interview?

11 A. Yes, sir.

12 Q. All right. Now, in Mr. Copeland's
13 statement, he tells you about a second person that
14 he was with on that occasion being his friend or a
15 young person, didn't he?

16 A. That's correct.

17 Q. In his statement, did he tell you what
18 this person's name was?

19 A. No, sir.

20 Q. Okay. Now, from reading the statement or
21 from your familiarity with this case, would that
22 person have also been either a victim or a material
23 witness to the offense if you knew who it was and
24 where they lived?

25 A. Yes, sir, because -- but I believe that

1 the person was a juvenile.

2 Q. Juveniles can be victims, can't they?

3 A. Yes, sir, they can.

4 Q. And juveniles can be witnesses, can't
5 they?

6 A. Yes, sir.

7 Q. In fact, many occasions they are, aren't
8 they?

9 A. Correct.

10 Q. Okay. Can you tell us whether or not the
11 Montgomery Police Department or you as the case
12 agent made any inquiry with Larry Copeland as to
13 who this person was that was physically present at
14 the scene on that occasion?

15 A. No, sir.

16 Q. Okay. Why didn't you?

17 A. I believe I asked him at the time, but I
18 do not remember taking it down.

19 Q. Okay. Now, you've been a police officer
20 for how many years?

21 A. Eight years.

22 Q. Okay. A thirteen-year-old person who was
23 at the scene could have been a potential witness,
24 couldn't they?

25 A. That's correct.

1 Q. And particularly the way he described
2 what happened, saying this person was part of the
3 whole transaction, right, the thirteen-year-old was
4 right there in the middle of it, wasn't he?

5 A. Um, that he was pulled to the side, yes,
6 sir.

7 Q. And, in fact, he contended that they were
8 walking together, traveling together, and had been
9 together for some period of time, right?

10 A. Correct.

11 Q. It wasn't just incidental that they
12 happened to be together that -- it wasn't a
13 coincidence that this young person was there? They
14 were together, weren't they?

15 A. Yes, sir, I believe they were traveling
16 together.

17 Q. Have you ever had any information that
18 led to this particular subject -- person or
19 subject's identity or address?

20 A. I'm -- I don't think so. I'm not sure,
21 though.

22 Q. All right. Now, let me ask you this
23 question. Do you have any evidence that connects
24 Kourtney Greenwood with this case other than that
25 identification that took place eight days later

1 where he's identified or photographed as being the
2 person that was also involved in this crime?

3 A. Other than Mr. Franklin's identification?

4 Q. Who's Mr. -- I'm asking you about
5 Mr. Copeland's --

6 A. I'm sorry. Correction.

7 Q. Okay. There is no Mr. Franklin?

8 A. Right.

9 Q. All right. Other than Mr. Copeland's
10 identification, is there any evidence that connects
11 Kourtney Greenwood with this case?

12 A. No, sir.

13 MR. HARTLEY: Thank you. No further
14 questions.

15 MS. PERKINS: Judge, may we
16 approach, please, before I redirect?

17 THE COURT: Yes. Mr. Hartley?

18 MR. HARTLEY: I'm sorry. I didn't
19 even --

20 (Bench conference was held.)

21 MS. PERKINS: Judge, I don't know if
22 you'll allow me to. But when he asked if there's
23 any other evidence, I think he opened the door that
24 he was found with the co-defendant getting into a
25 red car.

1 THE COURT: I think we'll just have
2 to take this and make an offer of it -- make an
3 offer of proof outside --

4 MS. PERKINS: Okay. We can do that.

5 THE COURT: Did you need to ask --
6 your client was showing you -- did you need to ask
7 something --

8 MR. HARTLEY: No.

9 MS. PERKINS: But I think when he
10 asked is there any other evidence, I think he might
11 have opened the door --

12 MR. HARTLEY: I said that connects
13 him with this crime.

14 MS. PERKINS: And that does connect
15 him with this crime, because it's the same --

16 THE COURT: I'm going to let them --
17 we'll have to do it outside the presence of the
18 jury.

19 (In the hearing of the jury.)

20 THE COURT: So you're going to get
21 another break. I hope it will be about ten
22 minutes. So we'll get you in about ten minutes.

23 (Out of the presence of the jury.)

24 THE COURT: Do you want to make an
25 offer of proof or do you want to ask him some

1 questions?

2 MS. PERKINS: I'll ask him some
3 questions --

4 THE COURT: Okay.

5 MS. PERKINS: First of all, just
6 straight -- to clear up the Record, exactly what it
7 is that I'm doing, I -- my -- the State's position
8 is that when Mr. Hartley asked Detective Buce, Is
9 there any other evidence linking my client to this
10 particular case, that he opened the door for him to
11 get in, basically, how he was developed as a
12 suspect, which is the exact issue that the State --
13 I mean, that the Court denied my motion in limine
14 to get that in. But I think he opened the door to
15 it. I will ask him a couple of questions, just
16 briefly, not into the substance of issues --

17 THE COURT: Well, go ahead.

18 MS. PERKINS: Okay.

19 DIRECT EXAMINATION

20 BY MS. PERKINS:

21 Q. How did you develop this particular
22 defendant as a suspect in this case?

23 A. The co-defendant, Jamar Brown, when he
24 was identified --

25 Q. Okay. Let me -- let me walk you through

1 it. How -- okay. You -- you developed the
2 co-defendant, Jamar Brown, through some evidence
3 that happened. Jamar Brown committed another
4 robbery after this, didn't he?

5 A. Correct.

6 Q. And, in that other robbery, there was a
7 red S-10 pickup that Jamar Brown got into in that
8 case; isn't that right?

9 A. That's correct.

10 Q. That is the same S-10 pickup that this
11 particular victim says he saw both of them get into
12 at that time; is that right?

13 A. That's correct.

14 Q. Now, at -- you've learned of these
15 defendants -- now, let me just stop right there.
16 Now, how did you develop this guy as a suspect?
17 You had Jamar Brown. How did you get
18 Kourtney Greenwood in that loop?

19 A. I found out that Jamar Brown had a -- an
20 alias name that he went by, McMall.

21 Q. Okay. And what does -- what does that
22 have to do with it?

23 A. There was another robbery that took place
24 in North Union Circle. The victim, a Mr. Franklin.

25 Q. And was that robbery similar to this one?

1 A. Correct, same red truck was used, McMall
2 and Kourtney Greenwood were put on an IO
3 supplemental report forwarded to me.

4 Q. Okay.

5 THE COURT: Now, wait. What -- they
6 were put on a supplemental report?

7 THE WITNESS: A supplemental
8 incident offense report like the regular incident
9 offense reports we have, it's another report that
10 adds information to it.

11 THE COURT: And why did you add his
12 name, Kourtney Greenwood?

13 THE WITNESS: His name was phoned in
14 by the victim, Mr. Franklin to my Sergeant. And my
15 Sergeant did the report and forwarded it to me.

16 Q. And it was the same red truck that was
17 used in that one that is used in these other two;
18 is that right?

19 A. That's correct.

20 Q. So when you found Jamar Brown linked in
21 these three different ones committed the same way
22 with the same truck, and in this one over here, you
23 had a co-defendant, you put that co-defendant in a
24 lineup; is that right?

25 A. That's correct.

1 Q. And that's how you got him to identify --
2 that's how he ended up identifying that specific
3 person; isn't that right?

4 A. That's correct.

5 MR. HARTLEY: May I ask some
6 questions?

7 THE COURT: Yeah.

8 CROSS-EXAMINATION

9 BY MR. HARTLEY:

10 Q. Was Kourtney Greenwood charged in any
11 other offense?

12 A. Yes, sir. He was charged in
13 Mr. Franklin's case.

14 Q. Has he been prosecuted for it?

15 A. Yes, sir, he was arrested for it. It
16 went to the grand jury and --

17 MS. PERKINS: And you're not allowed
18 to tell what happened in grand jury. But there is
19 not a pending case on it right now.

20 Q. Okay. So there is no pending case
21 against Kourtney Greenwood in regard to any of
22 those other investigations?

23 MS. PERKINS: Not at this point. He
24 can't say what there will be in the future.

25 THE COURT: Other than -- you said

1 somebody called in his name?

2 **THE WITNESS:** The victim of the
3 other robbery called in Mr. Greenwood and McMall,
4 which is Jamar Brown's alias name, to my Sergeant.

5 **THE COURT:** And that's how you --
6 and was he arrested?

7 **THE WITNESS:** For that offense, yes,
8 ma'am. And that --

9 **THE COURT:** And his photograph was
10 used in the lineup?

11 **THE WITNESS:** Correct. And the
12 circumstances are -- the same type vehicle was
13 used, the red S-10 truck, and it had the same basic
14 occurrence, a person was robbed inside of an
15 apartment complex, you know, with one of them
16 having a gun.

17 **MS. PERKINS:** And because Jamar
18 Brown had already been identified --

19 **THE COURT:** Mr. Hartley, your client
20 wants to tell you something, and I don't want him
21 to say anything.

22 (Mr. Hartley confers with his
23 client.)

24 **MR. HARTLEY:** Okay. Where are we,
25 Judge?

1 MS. PERKINS: I'm not going to go
2 further than that. That's it.

3 MR. HARTLEY: Is that what they
4 intend to offer into this case?

5 THE COURT: I'm denying your --
6 however -- whatever motion or -- I'm not going to
7 let you go into that, how he was developed.

8 So anything else?

9 MR. HARTLEY: No.

10 THE COURT: Let me ask. Is it --
11 are there going to be more questions for him?

12 MS. PERKINS: I'm not -- if he's not
13 going to let -- if the Court is denying my motion,
14 I don't have any more. That's it.

15 THE COURT: And let me say, for the
16 Record. I know that the State has previously tried
17 to get in 404B. And other -- other than the red
18 truck, there's certainly nothing else that would
19 connect this defendant with this robbery. However,
20 more important, I think that the -- any probate --
21 probative value is outweighed by prejudicial value,
22 and I'm not going to let it in.

23 Now, is the State going to rest?

24 MS. PERKINS: Yes, ma'am. At this
25 time, we do have a rebuttal witness depending on --

1 THE COURT: Then, Mr. Hartley, why
2 don't you go ahead and make your motions?

3 MR. HARTLEY: We will, Judge.
4 Judge, we would move to dis -- request the Court to
5 dismiss the charges against Kourtney Greenwood on a
6 judgment of acquittal, based on no prima facia case
7 of Robbery First Degree.

8 We would submit that the evidence does not
9 show that the other person who -- if there was
10 another person there, and whomever it was, didn't
11 do -- it shows nothing more than a mere presence
12 that the other person -- he said that person didn't
13 say anything to him, was just standing around.
14 There's no evidence -- and the only evidence is
15 against Jamar Brown as far as this robbery goes.

16 THE COURT: I've heard the evidence,
17 and I'm denying your motion.

18 MR. HARTLEY: Yes, ma'am. Okay.
19 How much longer before the jury comes back?

20 THE COURT: Coming right now.

21 MR. HARTLEY: Okay. Judge, I
22 would --

23 THE COURT: And going back, I don't
24 know if he calls the defendant, what the
25 co-defendant is going to say.

1 MS. PERKINS: I don't either, Judge.

2 THE COURT: So until we know what he
3 says, I don't see how we can even go into whether
4 or not --

5 MS. PERKINS: I agree, Judge.

6 THE COURT: -- the plea may be
7 relevant in some way.

8 We are ready.

9 MR. HARTLEY: I got to look for
10 witnesses.

11 MS. PERKINS: I just wanted to make
12 sure, Judge, that we approached to get a ruling on
13 it before he went into it in the middle of trial.

14 THE COURT: Just -- we'll do that.

15 MS. PERKINS: I don't want another
16 mistrial. Judge, may my witness step down?

17 THE COURT: Yeah.

18 MS. PERKINS: Okay.

19 (Witness excused.)

20 (In the presence of the jury.)

21 THE COURT: At this time, the State
22 has rested.

23 So, Mr. Hartley, are you ready with your --

24 MR. HARTLEY: We call Ms. Greenwood
25 to the stand.

1 THE COURT: And if you would raise
2 your right hand?

3 KIMBERLY GREENWOOD

4 The witness, having first been duly sworn or
5 affirmed to speak the truth, the whole truth, and
6 nothing but the truth, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. HARTLEY:

9 Q. State your name, please.

10 A. Kimberly Greenwood.

11 Q. And how old are you, Ms. Greenwood?

12 A. Twenty-one.

13 Q. And where do you live?

14 A. 1521 Reubin Street.

15 Q. Okay. Now, you -- I notice you have the
16 same last name as this young man?

17 A. (Witness nods.)

18 Q. Are y'all related?

19 A. Yes, that's my brother.

20 Q. Brother. Okay. I want to ask you if,
21 going back to April of this year, were you around
22 him very much?

23 A. When he come around, yes.

24 Q. Would you see him as much as once or
25 twice a week?

1 A. More than that.

2 Q. More than that?

3 A. (Witness nods.)

4 Q. All right. Do you have a recollection of
5 how his -- what hair style he had in the month of
6 April of this year?

7 A. Low hair cut. He always kept his hair
8 low.

9 Q. Is it -- would it be like it is now?

10 A. It would be lower than that.

11 Q. Lower than that?

12 A. Yes.

13 Q. Okay. Now, do you know what the
14 expression -- and I'll just tell you -- what twists
15 in a man's hair means?

16 A. When they start growing the dreads.

17 Q. Was that like short dreads or something?

18 A. Yes. They would look -- they start out
19 twists until they lock up.

20 Q. Okay. Is that sort of a fad or a
21 hairstyle that some people wear?

22 A. Mostly Jamaicans.

23 Q. Excuse me?

24 A. It's the style like the Jamaicans wear.

25 Q. All right. But -- so -- have you ever --

1 have you ever known Kourtney to have his hair in
2 twists for any -- on any occasion or at any time?

3 A. No.

4 Q. Was his hair long enough to be in a
5 twist?

6 A. No.

7 Q. How much do you need to get a twist?

8 A. As long as you have around -- they've got
9 to be able to be gripped for somebody to twist them
10 up.

11 Q. Okay. So is it your testimony that,
12 whether you have or have not ever seen him have
13 twists in his hair?

14 A. No, he always kept it low.

15 Q. Would it be like it is now?

16 A. It would be lower than that.

17 Q. Well, let me show you this photograph.
18 Would it be like this photograph? It's the one in
19 the middle there. I realize there's six of them.
20 I had not shown you. But see how it is there.

21 A. Huh-uh. It would be -- it's low. It's
22 just a low hair cut with tape.

23 Q. But no twists?

24 A. Huh-uh.

25 MR. HARTLEY: Thank you. The

1 District Attorney may ask you some questions.

2 CROSS-EXAMINATION

3 BY MS. PERKINS:

4 Q. You said you -- you said you saw Kourtney
5 when he comes around?

6 A. Yes, ma'am.

7 Q. There were some times when he wasn't
8 around you?

9 A. Yes.

10 Q. Was he ever around you for more than a
11 day or two?

12 A. Yes.

13 Q. Was he -- he was gone for weeks at a
14 time; isn't that right?

15 A. Not from around us, not really.

16 Q. But, definitely, say three or four days
17 would go by and you would not see him; isn't that
18 right?

19 A. No.

20 Q. More than two days then where you
21 wouldn't see him?

22 A. Yes.

23 Q. Okay. So two to three days when you
24 wouldn't see him?

25 A. Yes.

1 Q. All right. And it could have been more
2 than that at some point. You just might not
3 remember; is that right?

4 A. I always see him.

5 Q. Okay. But -- but there definitely could
6 have been two to three days that had gone by where
7 you didn't see him; is that right?

8 A. Yes.

9 Q. Now, you would agree that you can
10 actually twist his hair right now, can't you?

11 A. It would be hard.

12 Q. But it's possible to twist his hair at
13 the length it is right now, isn't it?

14 A. Probably so if you comb it out real good.

15 Q. If you comb it out real good and you pick
16 it out, you can grip the ends and twist it the
17 length it is right now; isn't that right?

18 A. Probably, I don't --

19 Q. Excuse me?

20 THE COURT: You need to answer.

21 Q. Probably?

22 A. Probably. You probably will.

23 Q. Probably could.

24 A. If you pick it, twist --

25 Q. Probably could twist it at the length it

1 is right now. And there are some people that you
2 would agree that might be able to twist it a little
3 bit shorter; isn't that right?

4 A. Yeah. Professionals.

5 Q. They can twist it even at lengths shorter
6 than that, can't they?

7 A. They probably can.

8 Q. They can. Now, when you're twisting your
9 hair -- when you're twisting -- I'm just -- you
10 know, we're just going to talk about twists for a
11 second. Okay. Now, some people wear twists when
12 they're going to grow dreadlocks in their hair; is
13 that right? And some people just wear twists as a
14 style? It's a style, isn't it?

15 A. It's -- yeah.

16 Q. It is -- you may not like it, but it is a
17 style. Like, a lot of people wear twists some
18 times, don't they?

19 A. Most -- yeah.

20 Q. Like, you're even beginning to see people
21 on TV wearing twists sometimes, some of the actors,
22 even in some of the television shows; isn't that
23 right?

24 A. (Witness nods.)

25 Q. Now, just because you're twisting your

1 hair, doesn't mean you have to lock it, does it?

2 A. Not -- if you don't want it to.

3 Q. Right. When you're locking your hair --
4 and I want to explain for some of the ladies and
5 gentlemen of the jury that may not understand that.
6 When you're locking your hair, that means you twist
7 it and you can't take the twist out unless you cut
8 it; is that right?

9 A. Yes.

10 Q. Now, but when you're just twisting it,
11 and you don't lock it, you can wash those twists
12 out of your hair, can't you?

13 A. Yes.

14 Q. As a matter of fact, you can wear twists
15 in your hair for one or two days, then wash it out
16 and it's back like that; isn't that right?

17 A. Yes.

18 Q. So it's possible that one of those one or
19 two days Kourtney wasn't around you, he could have
20 had twists in his hair; isn't that right?

21 A. He never kept his hair long enough for
22 it.

23 Q. Let me ask you this: It's possible that
24 one of those two days that he was around you -- let
25 me just say this. You weren't around him at the

1 times when he wasn't around you; isn't that right?

2 A. No.

3 Q. You weren't around him, right?

4 A. (Witness nods.)

5 Q. So you don't know whether or not he had
6 twists in his hair; is that right?

7 A. His hair don't grow fast.

8 Q. His hair doesn't grow fast?

9 A. No.

10 Q. Okay. But you don't know whether or not
11 he had twists in his hair on those days that he
12 wasn't around; isn't that right?

13 A. Yes.

14 Q. Now, you said that Kourtney is your
15 brother, right?

16 A. Yes.

17 Q. Are y'all close?

18 A. Not really.

19 Q. You're not close?

20 A. No.

21 Q. You're not close?

22 A. No.

23 Q. So would you want to see him go to jail?

24 A. Huh?

25 Q. Would you want to see him go to jail?

1 A. Well, really, he's been there most of the
2 years.

3 Q. Oh, he's been there before?

4 A. Huh?

5 Q. He's been there before?

6 A. He's been here locked up down here for a
7 while. He's -- that's my brother and, of course, I
8 don't want to see it, but --

9 MS. PERKINS: Nothing further,
10 Judge.

11 REDIRECT EXAMINATION

12 BY MR. HARTLEY:

13 Q. Would you lie under oath --

14 A. No.

15 Q. -- about his hair --

16 A. (Witness nods.)

17 Q. -- just to keep -- to deceive this jury?

18 A. No, sir.

19 Q. And you were around him often in April,
20 weren't you?

21 A. Yes.

22 Q. Is it troublesome to put a bunch of
23 twists in your hair? Is it a slow job, take a
24 while?

25 A. Yes.

1 Q. How long, an hour, minutes, or what?

2 A. It -- professionals, I don't know how
3 long it take with that. But it don't take over a
4 day --

5 Q. A day?

6 A. -- as long as they don't keep stopping.
7 As long as they don't keep stopping, it don't take
8 long.

9 Q. Would it be very practical for somebody
10 to put a bunch of twists in their hair and then
11 just take it out the next day or is that a lot of
12 waisted effort?

13 A. It would be a waist of time.

14 Q. Okay. And you never saw him with any
15 twists in his hair ever?

16 A. No.

17 MR. HARTLEY: I thank you,
18 Ms. Greenwood. That's it.

19 THE COURT: Anything --

20 MS. PERKINS: Nothing further of
21 this witness, Judge.

22 THE COURT: Okay. You're excused.
23 You can stay or leave.

24 (Witness excused.)

25 THE COURT: Your next witness?

1 MR. HARTLEY: I'll get him, Judge.

2 THE COURT: If you'll come have a
3 seat right up here and raise your right hand?

4 DEVEN GREENWOOD

5 The witness, having first been duly sworn or
6 affirmed to speak the truth, the whole truth, and
7 nothing but the truth, testified as follows:

8 DIRECT EXAMINATION

9 BY MR. HARTLEY:

10 Q. All right. We want you to speak loud
11 enough and state your name for the Record, please?

12 A. My name is Deven Greenwood.

13 Q. All right. And spell your first name for
14 the court reporter.

15 A. D-e-v-e-n.

16 Q. All right. Ms. Deven Greenwood, how old
17 are you, Ms. Greenwood?

18 A. How old are I?

19 Q. Yes.

20 A. Twenty.

21 Q. All right. And how are you -- are you
22 related to Kourtney Greenwood?

23 A. Yes, I am.

24 Q. What relationship?

25 A. I'm his sister.

1 Q. All right. Do you -- you -- in the past
2 seven or eight months, going back to April of this
3 year, do you have many occasions to see him?

4 A. Yes.

5 Q. Would it be fairly -- tell us how often.

6 A. Well, I seen him quite often. I used to
7 take him to work. He used to stay with me some of
8 the time at my house.

9 Q. Let's -- and we're talking about April
10 now. April -- the first week of April or ten days
11 of April.

12 A. Yes, I used to see him. He come over
13 every day.

14 Q. Everyday, virtually?

15 A. Yes.

16 Q. All right. Can you tell us about his
17 hairstyle?

18 A. Short.

19 Q. What kind of hairstyle did he ever wear?

20 A. A low fro.

21 Q. A what?

22 A. A low fro.

23 Q. Low fro. Is that a haircut that would be
24 similar to what he has right now?

25 A. Yes.

1 Q. Okay. Did he ever wear it much longer
2 than that?

3 A. No.

4 Q. Okay. Have you ever seen him with twists
5 in his hair?

6 A. It ain't never grow out that long to get
7 a twist.

8 Q. Okay. This is a photograph that was used
9 for identification of him. And it was taken
10 sometime prior to April of this year. Not known
11 exactly how long, but that's what the witness
12 testified to. Have you ever seen -- I mean, you've
13 seen him with his hair like that before, haven't
14 you?

15 A. Yes.

16 Q. Does that represent the way Kourtney
17 sometimes wears his hair?

18 A. It represents all the time the way he
19 wears his hair.

20 Q. Are you sure that he never put twists in
21 his hair?

22 A. He's never put twists in his hair.

23 Q. And so if somebody identified him saying,
24 The man that I was talking about had twists in his
25 hair. It couldn't be Kourtney, could it?

1 A. No.

2 MR. HARTLEY: Thank you. No further
3 questions.

4 CROSS-EXAMINATION

5 BY MS. PERKINS:

6 Q. You would agree that he could actually
7 twist his hair the length it is now; isn't that
8 right?

9 A. No.

10 Q. You wouldn't agree?

11 A. No, because I do hair and do my little
12 sisters and them hair, and his hair is not that
13 length, unless you want to cut your fingers or hurt
14 your fingers.

15 Q. But it is possible to twist the hair the
16 length it is right now; is that right?

17 A. No.

18 MS. PERKINS: Nothing further --

19 Q. So if someone said that it would be
20 possible to twist their hair that length, they
21 would be lying?

22 A. They would need to let it grow out some
23 more and put some honey on it. Because I tried to
24 get my hair twisted at their length when it was
25 locked.

1 Q. So, say, if I said I had my hair that
2 length and I twisted my hair when it was that
3 length, that wouldn't be possible?

4 A. My beautician said it would not even stay
5 together less than an hour.

6 Q. It wouldn't stay together, but it is
7 possible to do it, isn't that right?

8 A. I don't know. I didn't try it.

9 MS. PERKINS: Nothing further,
10 Judge.

11 MR. HARTLEY: Nothing further.

12 THE COURT: Okay. You can step
13 down. You're excused. You can stay or leave.

14 (Witness excused.)

15 THE COURT: Your next witness?

16 MR. HARTLEY: Judge, my next witness
17 is Lavan Howard. I have not seen her in the
18 hallway. She was here earlier.

19 THE COURT: Well, I'll get her
20 paged.

21 MR. HARTLEY: I believe she may be
22 returning.

23 THE COURT: Do you --

24 MR. HARTLEY: These witnesses may
25 know about her whereabouts.

1 THE WITNESS: She's going to pick up
2 her children from school.

3 THE COURT: I can't hear you.

4 THE WITNESS: She was going to pick
5 up her children from school.

6 THE COURT: So she's probably not
7 here. Could you take anyone else?

8 MR. HARTLEY: I don't think I have
9 another witness. If I did, I would, but I don't
10 think -- that was maybe my last witness really.

11 THE COURT: Okay. Well, come up
12 here -- do you know when she left and where are her
13 children in school?

14 THE WITNESS: She hasn't been gone
15 that long. She left about five or ten minutes ago.

16 THE COURT: Where does she have to
17 get her children from school? What school?

18 THE WITNESS: I don't know.

19 THE DEFENDANT: I think they go to
20 Peter Crumpton.

21 MR. HARTLEY: Peter Crumpton.

22 THE COURT: Well, that's -- is that
23 going to be your last witness?

24 MR. HARTLEY: Yes, she's going to be
25 my last witness and she has a photograph too, so

1 that's why she's so important.

2 THE COURT: Wait. Wait. Do you
3 know whether she has a car phone or any type of --

4 THE WITNESS: I think she has a cell
5 phone.

6 THE COURT: Would you go talk to her
7 and see if you can -- so we can see where --

8 MR. HARTLEY: I may have it in my
9 file, Judge.

10 (Mr. Hartley looking and talking.)

11 MR. HARTLEY: I have some numbers I
12 think I can call.

13 THE COURT: Okay. Well, I'm going
14 to give y'all another break, so you don't have to
15 just sit there. We'll certainly let you know
16 something at 3:30. Whatever we know, we'll know.

17 (Out of presence of the jury.)

18 MR. HARTLEY: I'll waive the
19 presence of my client. Just -- we anticipate that
20 the State --

21 THE COURT: Wait just a minute.

22 MR. HARTLEY: If the Court allows
23 this type testimony, it would make it an
24 impossibility for the defense to effectively
25 cross-examine this person. In other words, the

1 Court has already sort of noted that his testimony
2 would be so limited that it would be just like one
3 or two questions and an answer. Any
4 cross-examination would be -- would make it
5 incumbent upon the counsel -- defense counsel to
6 try to test the validity of his statement.
7 Therefore, you go right into the facts that he was
8 testifying about a robbery.

9 THE COURT: Well, I mean, if you
10 want to do that, I think --

11 MR. HARTLEY: No.

12 THE COURT: -- but they cannot get
13 into that. But they can certainly have a rebuttal
14 witness to testify about hair.

15 MS. PERKINS: And that's solely --
16 the questions that I'll give an offer of proof
17 strictly -- and I'm going to strictly -- have
18 informed him that he is not to say anything. I am
19 strictly going to ask him, Have you seen this guy
20 before? When did you see him? What was the date?
21 Where were you when you saw him? Who was he with?
22 And what was his hair like? That's it.

23 MR. HARTLEY: All right, Judge, then
24 outside the presence of the jury, I want to be able
25 to ask him a couple of questions so that the

1 appellate record, if it has to go up on appeal,
2 would reflect that counsel cannot cross-examination
3 somebody who -- a person whose only association
4 with this man is in an unindicted criminal charge.

5 In other words, we can't really go into any
6 cross-examination without opening the door of
7 another charge.

8 MS. PERKINS: But you have a right
9 to open the door --

10 MR. HARTLEY: Oh, I know --

11 MS. PERKINS: -- you can do that if
12 you want --

13 MR. HARTLEY: You're right. It puts
14 me in that position.

15 THE COURT: Mr. Hartley, she can
16 call -- you've gone into the hair. You've brought
17 it up, and she certainly has a right to have a
18 rebuttal witness on that limited. Rebuttal
19 witnesses are limited any way.

20 MR. HARTLEY: Your Honor, if he
21 makes such a good identification, why wasn't
22 Kourtney Greenwood indicted for that offense?

23 MS. PERKINS: Judge, we're not
24 talking about that offense.

25 THE COURT: We are not talking --

1 MS. PERKINS: We're just saying that
2 he's somebody that has seen him before without --
3 with twists in his hair.

4 MR. HARTLEY: We object to this
5 testimony, Judge.

6 (In the presence of the jury.)

7 THE COURT: Okay. Mr. Hartley, are
8 you ready with your witness?

9 MR. HARTLEY: Yes, Judge.
10 Ms. Howard, come on.

11 THE COURT: If you'll have a seat
12 right over there and raise your right hand.

13 LAVAN HOWARD

14 The witness, having first been duly sworn or
15 affirmed to speak the truth, the whole truth, and
16 nothing but the truth, testified as follows:

17 THE COURT: Okay. Put your hand
18 down and slip up to the microphone.

19 DIRECT EXAMINATION

20 BY MR. HARTLEY:

21 Q. State your name for the Record, please.

22 A. Lavan Howard.

23 Q. All right. Ms. Howard, how old are you?

24 A. Twenty-six.

25 Q. And where do you live?

1 A. 3207 Meadow Lane.

2 Q. All right. Ms. Howard, are you
3 acquainted with Kourtney Greenwood?

4 A. Yes.

5 Q. And what is your relationship with him?

6 A. I have kids by him.

7 Q. Have kids?

8 A. Uh-huh.

9 Q. Okay. Did y'all remain friends or
10 boyfriend and girlfriend for a long period of time?

11 A. Yes.

12 Q. Okay. Now, you're no longer seeing him,
13 are you?

14 A. No, sir.

15 Q. You have another boyfriend, don't you?

16 A. Yes.

17 Q. All right. Now, did you see him
18 frequently in the months of April -- well, let's
19 say -- April, May, and June of this year?

20 A. Yes.

21 Q. Did you see him often enough to be able
22 to testify about how he kept his hair?

23 A. Yes, sir.

24 Q. And how many times would you have seen
25 him in April?

1 A. Almost daily, because he came -- he came
2 by daily.

3 Q. Okay.

4 A. And he stayed a few nights.

5 Q. Are you -- okay. I asked you could --
6 can you testify about how he has worn his hair
7 since you've known him?

8 A. Yes.

9 Q. And would you represent to the jury
10 something about his hairstyle?

11 A. Well, me and Kourtney had been dating
12 for, like, five and a half years. We lived
13 together. And he's always wore an afro.

14 Q. If I use the term twist as a -- for a
15 hairstyle. Are you familiar with people that wear
16 twists?

17 A. Yes, sir.

18 Q. Have you ever had an occasion to see him
19 wear twists in his hair?

20 A. I have never seen Mr. Greenwood wear
21 twists in his hair.

22 Q. Is there a reason for that that you know
23 of?

24 A. Yes.

25 Q. What's that?

1 A. He never really wore -- wanted his hair
2 cut real low, because him and my son, their ears
3 stick out at the top. And he's always wore his
4 afro to keep his ears from sticking out at the top.

5 Q. Is that to soften the effect of his ears
6 or something?

7 A. I guess so.

8 Q. He didn't like his ears?

9 A. He just don't like the way his ears stick
10 out.

11 Q. I'm going to show you what I've shown to
12 counsel. And I'm going to show you some pictures,
13 and I want to ask you to identify those. And tell
14 me if you were present when those pictures were
15 taken.

16 A. Yes, sir, I took them.

17 Q. Okay. And what do they purport to be?

18 A. This is Kourtney Greenwood with his son
19 right here standing in the bedroom of the door.
20 And this is April, around the 17th, when our son
21 turned three, and we had a big birthday for him.
22 And this is Kourtney and his son and his nephew.

23 Q. That's April the 17th, I think it is?

24 A. Yes, sir.

25 Q. All right. And how can -- how can you be

1 absolutely certain that that picture was taken on
2 April 17th?

3 A. Because it's my son's birthday.

4 Q. Okay. When y'all celebrated it this
5 year?

6 A. Uh-huh.

7 Q. All right. And does this show your
8 husband -- well, not husband. He's not your
9 husband. But father of your child, right?

10 A. Uh-huh.

11 Q. Does it show his hair?

12 A. Yes.

13 Q. And is it in a relative low afro?

14 A. Yes, sir.

15 Q. All right. In the week or two before
16 that, had he ever gone to the trouble of putting
17 twists in his hair?

18 A. No, sir.

19 Q. Has he ever done it?

20 A. No, sir.

21 Q. Are you stating that under oath this is
22 true in front of this jury?

23 A. Yes, sir.

24 Q. Would you lie because he's the father of
25 your children?

1 A. No, sir.

2 Q. If other witnesses said he never put
3 twists in his hair, like, his sisters, would they
4 be able to testify to that?

5 MS. PERKINS: Objection, Judge.

6 THE COURT: Sustained.

7 MR. HARTLEY: Okay. Strike that.
8 We offer -- well, we have not marked them, but we
9 offer those photos as Defense 1 and 2.

10 MS. PERKINS: I don't have any
11 objection.

12 THE COURT: Admitted.

13 (Defendant's Exhibits No. 1 and 2
14 were admitted into evidence.)

15 MS. PERKINS: No questions for this
16 witness.

17 THE COURT: Okay. You can step down
18 and you're excused. You can stay or leave.

19 THE COURT REPORTER: I need the
20 pictures, please.

21 (Witness hands them over.)

22 THE COURT REPORTER: Thank you.

23 THE COURT: Do you have any other --

24 MR. HARTLEY: Wait one moment. Can
25 I have -- can I recall this witness?

1 THE COURT: Sure. And just remember
2 you're still under oath.

3 LAVAN HOWARD

4 The witness, having been reminded that she was
5 duly sworn or affirmed to speak the truth, the
6 whole truth, and nothing but the truth, testified
7 as follows:

8 DIRECT EXAMINATION (continued)

9 BY MR. HARTLEY:

10 Q. Ms. Howard, I did forget, and I wanted to
11 ask one more line of questions. You remember the
12 birthday party of it being on the 17th?

13 A. Uh-huh.

14 Q. Okay. A week before that, do you
15 remember if that was during the week or on the
16 weekend?

17 A. I think it is on a Saturday.

18 Q. On a what?

19 A. A Saturday.

20 Q. Do you remember on -- during the week
21 nights of that time period what he was doing
22 typically most week nights?

23 A. Yes, sir.

24 Q. What was it?

25 A. He used to baby-sit for me while I go to

1 work and school and stay at night.

2 Q. Okay. Now, where were you going to work
3 and school?

4 A. At Scooters Hot Wings. I had two jobs.

5 Q. And --

6 A. And it -- my Scooters Hot Wings job was
7 at nighttime. It used to be from, like, 4:30 to
8 9:30 or 10:00. And I didn't have no babysitter for
9 the three kids, and so he would have to baby-sit.

10 Q. Do you remember about -- on around April
11 the 10th as to whether or not he was baby-sitting
12 for you or not during that time?

13 A. He did.

14 Q. And when you came home, did he stay home
15 or did he go somewhere?

16 A. Huh-uh, he stayed there.

17 Q. Okay. Do you remember on Tuesday, April
18 the 10th, whether or not he baby-sat for you?

19 A. He baby-sit. I worked on Tuesday,
20 Thursday, and Saturdays.

21 Q. During that time period, you were working
22 those days?

23 A. Uh-huh.

24 Q. And can you state affirmatively that he
25 baby-sat for you on Tuesday during the first week

1 of April?

2 A. Yes, sir.

3 Q. Okay. And that would have been into the
4 hours at least till ten or eleven o'clock at night?

5 A. Yes, sir.

6 Q. And he would stay there or would he
7 leave?

8 A. Stay.

9 MR. HARTLEY: Thank you. No further
10 questions.

11 CROSS-EXAMINATION

12 BY MS. PERKINS:

13 Q. Now, this offense happened on April 18th.
14 Was he baby-sitting for you on April 18th?

15 A. My sister went -- my sister went in
16 labor. My son had his birthday party on the 17th.
17 That evening -- that night, my sister went in
18 labor. I left Mr. Greenwood there with his niece,
19 his nephews, and our kids. And I stayed -- I spent
20 the night at the hospital --

21 Q. Okay. So you weren't there?

22 A. -- so he was there.

23 Q. Were you there the whole night with him?

24 A. No, I wasn't there, but --

25 Q. Let me go back for a second. Kourtney

1 has been charged with this offense since July of
2 2002; is that right? Are you aware that he --
3 didn't you know that he was charged with this
4 offense before now?

5 A. What you mean did I know he was
6 charged --

7 Q. Did you know that he had been charged
8 with a robbery before now?

9 A. Yeah.

10 Q. Have you ever given -- gone to the police
11 office and given a statement -- an alibi is
12 important, isn't it?

13 A. Yes.

14 Q. And if you were saying that he was at
15 home that night, that would be some important
16 information, wouldn't it?

17 A. And I never went to the police station or
18 the detective station to give no alibi witness or
19 nothing like that, because I -- I never was asked
20 to. If I would have been asked to or, like now, if
21 I would have been subpoenaed to come to court or
22 subpoenaed to go talk to someone, then, yes, ma'am,
23 I would have. But, no, ma'am, I didn't.

24 Q. You didn't --

25 A. When they locked Kourtney up, they locked

1 Kourtney up.

2 Q. Did you know why Kourtney was locked up?

3 A. When he called home, he said something
4 about they was trying to charge him with some
5 robbery.

6 Q. All right. And -- and if he was at home
7 baby-sitting your children, then that would mean
8 that he didn't commit this robbery, right?

9 A. Correct.

10 Q. And he's the father of your children,
11 right?

12 A. That's right.

13 Q. And you wouldn't want to see the father
14 of your children locked up for something he didn't
15 do, right?

16 A. Sure wouldn't.

17 Q. So that would be some important
18 information to give the police at that point; isn't
19 that right?

20 A. It probably would have been --

21 Q. I'm just asking --

22 A. But --

23 MR. HARTLEY: Your Honor --

24 THE COURT: Wait.

25 A. I was --

1 THE COURT: Wait. She can't take it
2 down when everybody talks at the same time. Let
3 her finish asking the question. But let her finish
4 the answer. And if you have an objection,
5 Mr. Hartley, do it when she asked the question.
6 Would you repeat it?

7 Q. My question is simply this: Would that
8 be important information? That's a yes or no
9 question. Is that information -- would that
10 information be important that he was at home with
11 your kids?

12 A. Yes, it's important.

13 Q. Right. And since that information is
14 important, that would be some information -- and
15 this is simply a yes or no question -- that would
16 be some important information for the police to
17 have when you found out he was charged, wouldn't
18 it? Yes or no?

19 A. Yeah.

20 Q. It would have been important. But you
21 didn't tell them, did you, yes or no?

22 A. No, I didn't tell them. And I have a
23 reason for not telling the police, because a
24 detective or police and no one else ever came to me
25 asking me the whereabouts of my kids's father that

1 night up until I talked to Mr. John Hartley.

2 Q. The first time that we're hearing about
3 this is today; isn't it?

4 A. The first time you're hearing about what?

5 Q. About -- about that he was at home is
6 today; isn't that right?

7 A. I'm quite sure he done spoke up for
8 himself.

9 Q. Um, let me move on. Let's talk about
10 that night. Okay. You weren't there, were you?

11 A. Which night?

12 Q. The night that this offense happened, the
13 night that your cousin was in labor.

14 A. When my sister went into labor?

15 Q. Yes, ma'am.

16 A. No, he was there with his kids.

17 Q. Let me --

18 A. I rushed off to the hospital.

19 Q. Okay. Let me ask my question, and then
20 you can answer.

21 THE COURT: Do you need some water?

22 THE JUROR: I'm fine. Thank you.

23 Q. Okay. Let me ask you some questions, and
24 I just simply want you to answer my questions. And
25 then Mr. Hartley can come and clear something up

1 for you, if need be. Okay?

2 A. Uh-huh.

3 Q. Now, you said it was your sister --

4 A. It is.

5 Q. Did I get it right?

6 A. Uh-huh.

7 Q. Okay. Your sister went off into labor;
8 is that right?

9 A. Yes.

10 Q. Now, when your sister -- what time was
11 this when this happened?

12 A. Ma'am, I don't know. This was in April.
13 I'm not for sure what time it was.

14 Q. Was it noontime?

15 A. No. It was nighttime.

16 Q. Was it midnight --

17 A. When I left -- when I left Mr. Greenwood
18 there with his kids, it was nighttime.

19 Q. Okay.

20 A. It was late nighttime.

21 THE COURT: Wait just a minute.

22 Could you --

23 MS. PERKINS: I'll get it. (Hands
24 juror some water.)

25 PROSPECTIVE JUROR: Sorry. Thank

1 you.

2 Q. Now, when you left Mr. Greenwood there
3 with his kids, you said it was nighttime, right?

4 A. Nighttime.

5 Q. And you left; isn't that right?

6 A. Uh-huh.

7 Q. And you went to the hospital, right?

8 A. Yes.

9 Q. What time -- how long did you stay at the
10 hospital?

11 A. Until the next morning.

12 Q. Until the next morning?

13 A. Uh-huh.

14 Q. Okay. So if you left that night to go to
15 the hospital, and you didn't come back until the
16 next morning, that means that you weren't at the
17 house that whole night, were you?

18 A. Huh-uh.

19 Q. Okay.

20 THE COURT: Now, you need to answer
21 yes or no for the Record.

22 A. No.

23 Q. So if you weren't at the house that whole
24 night, you can't say whether or not
25 Kourtney Greenwood was at the house the whole

1 night, can you?

2 A. Well, I can say when I was at the
3 hospital, I did call Kourtney Greenwood several
4 times to check upon my kids and make sure that they
5 was all right. And I can say that.

6 Q. And this statement -- and this is also
7 information that you've never told the police
8 before this --

9 A. The police never came to me wanting to
10 know information, ma'am, about Kourtney Greenwood
11 or his arrest.

12 Q. But if you knew he was innocent, why
13 didn't you go to them?

14 A. Why should I go to them? He can speak up
15 for himself.

16 Q. That's a good question.

17 MS. PERKINS: Nothing further of
18 this witness.

19 REDIRECT EXAMINATION

20 BY MR HARTLEY:

21 Q. Are you very sure that the night that
22 you're talking about when he was -- when you were
23 at the hospital was a Tuesday?

24 A. That's when -- she's talking about that
25 Saturday after the birthday party. That Tuesday, I

1 was at work. And when I got off of work,
2 Mr. Greenwood was still at home with his kids where
3 I left him at.

4 Q. Okay. Do you remember that he was
5 charged with this matter April -- I mean, do you
6 know that he was charged with an event that took
7 place on Tuesday night?

8 A. Kourtney called home when they had
9 arrested him or whatever. He called home -- he
10 called my house, and he was, like, I'm in jail. Me
11 and Kourtney was going through some changes and
12 I -- I had washed my hands of him. And I wasn't
13 really -- being honest, I wasn't concerned.

14 Q. Okay. Okay. But look back on it. Did
15 you say that he kept your children on Tuesday
16 nights --

17 A. Yes, he kept my kids on Tuesdays,
18 Thursdays, and Saturday.

19 Q. And if this offense took place on April
20 the 9th -- and I'm just saying -- and if that was
21 one of those Tuesdays that he was baby-sitting for
22 you, right?

23 A. Yes, sir.

24 Q. Okay. I'm not saying it was or wasn't.
25 But you're saying it was a Tuesday and it fell in

1 April, he was baby-sitting for you?

2 A. Yes, sir.

3 Q. Okay. And the place -- the DA asked you
4 if this is important information or important
5 testimony. This is the place to give important
6 information and testimony, isn't it?

7 A. Yes, sir.

8 Q. Because this is where his guilt or
9 innocence is decided, right?

10 A. Yes, sir.

11 Q. So it's just as good to tell it here as
12 it is to tell it to the police down there, isn't
13 it?

14 A. Yes.

15 MR. HARTLEY: Thank you.

16 RECROSS-EXAMINATION

17 BY MS. PERKINS:

18 Q. On April 9th, you were working?

19 A. Yes.

20 Q. You weren't at home, were you?

21 A. No.

22 Q. Okay. So you don't know whether Kourtney
23 was there the whole time on April 9th or not, do
24 you?

25 A. I mean, I call home when I'm not home. I

1 call home and I check on Kourtney and my kids. And
2 if Kourtney had left, he must have left the kids
3 there my themself. And that's something he would
4 not do, because he's been baby-sitting kids every
5 since they was kids.

6 Q. You weren't at the house, were you?

7 A. No, ma'am.

8 Q. So you don't know whether or not he was
9 there, do you, yes or no?

10 A. No, ma'am.

11 MS. PERKINS: Nothing further,
12 Judge.

13 MR. HARTLEY: Nothing further.

14 THE COURT: Okay. You can step
15 down. You can stay or leave.

16 (Witness excused.)

17 THE COURT: Do you have any other
18 witnesses?

19 MR. HARTLEY: No, Your Honor. I
20 don't think I'm going to attempt to call that other
21 witness.

22 THE COURT: Okay. And so at this
23 time --

24 MR. HARTLEY: Wait one moment. Let
25 me see what he wants.

1 (Brief second was taken.)

2 MR. HARTLEY: Okay. My client wants
3 to testify.

4 THE COURT: Okay. And would you
5 raise your right hand?

6 KOURTNEY GREENWOOD

7 The witness, having first been duly sworn or
8 affirmed to speak the truth, the whole truth, and
9 nothing but the truth, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. HARTLEY:

12 Q. State your name.

13 A. My name is Kourtney Greenwood.

14 Q. And your age.

15 A. Twenty-two.

16 Q. All right. Kourtney, let me ask you
17 about what you were generally doing back in April
18 of this year. Where were you living and where were
19 you staying?

20 A. I was staying at 248 West South Boulevard
21 with my cousin.

22 Q. Okay. What about your relation with
23 Lavan Howard at that time?

24 A. We saw each other every day. But, like
25 she said, we were going through bad terms. But,

1 you know, by us still having dealings because of
2 the kids, we communicated every day.

3 Q. Did you have occasion where you would
4 baby-sit for her?

5 A. Every Tuesday, Thursday, and Saturday.

6 Q. Was that a regular thing or just for one
7 week or two that you did this?

8 A. Every Tuesday, Thursday, and Saturday.
9 That was her second job. On those three nights of
10 the week, I always baby-sit, because she didn't
11 have no babysitter. And that was my kids, so I
12 always was there.

13 Q. How many kids do you have by her?

14 A. Two.

15 Q. Okay. Are they -- are they in the
16 picture?

17 A. Yes, sir.

18 Q. Okay. Identify your children in those
19 pictures for me, because there appear to be maybe
20 another child or somebody in there.

21 A. A little nephew and my niece. That's my
22 little boy right here.

23 Q. Hold it for the jury -- I know they can't
24 see, it's not real close, but they'll look at it
25 later. Kind of just aim it towards them and point

1 to which one is your child.

2 A. This is my little boy right here. My
3 little girl, she's not around right now. She's
4 probably off to the side somewhere. But I'm
5 holding my little boy.

6 Q. And is that a picture, as was testified
7 earlier, is that a picture of a birthday party?

8 A. Yes, sir.

9 Q. Okay. And what about the other picture,
10 who are you holding in the other picture?

11 A. That's my little boy again.

12 Q. Okay. Is that picture taken at an
13 earlier time?

14 A. Yeah, that morning.

15 Q. Now, on April the 9th, did you go out to
16 the area of Moorecroft apartments and have anything
17 to do with this man?

18 A. No, sir.

19 Q. Did you have anything to do with
20 Jamar Brown?

21 A. I don't even know of a Jamar Brown, sir,
22 or Mr. Copeland.

23 Q. Okay. Now, what about your hair, how
24 have you habitually worn your hair?

25 A. I always wore a miniature size fro --

1 afro. It's just the way I always -- it's just my
2 little style, I guess.

3 Q. Has it ever been a desire of yours to put
4 these twist things in your hair?

5 A. No, sir.

6 Q. Have you ever worn your hair, basically,
7 you know, long enough to do that?

8 A. No, sir.

9 Q. Does it -- is it a style that you would
10 like to have on you for appearance purposes?

11 A. No, sir.

12 Q. Are you -- what do you call it -- partial
13 to the way your hair is done now?

14 A. State that again.

15 Q. Okay. Do you like the way your hair is
16 now?

17 A. Yeah, I like it like this, because I
18 always -- I can just pick it out or just comb it
19 and be through with it, you know. I ain't ever had
20 no desire to wear it any other type way besides
21 wave. That was a couple of years ago. I used to
22 wear waves in my hair.

23 Q. But no twists?

24 A. No twists.

25 Q. Okay. All right. And do you tell this

1 jury today that you never were involved with
2 Jamar Brown when he -- if Jamar Brown took some
3 money or something from this man?

4 A. I don't even know Jamar Brown or know
5 Mr. Copeland. Personally, I don't know neither one
6 of them. I don't know what was going on. I just
7 know I was at a female friend's house of mine, and
8 I was just arrested and been locked up ever since,
9 you know. And things just -- I didn't know what
10 was going on, so I didn't sign nothing. I didn't
11 do anything when the police arrested me. All they
12 said was I was charged with robbery. And it
13 shocked me half to death, you know, so I just
14 didn't say anything or do anything up until now
15 when -- that's why I want to speak today. And I
16 have a little more that I want to add to my
17 statement.

18 THE COURT: Wait. You just need to
19 answer his questions.

20 Q. Well, where were you on April the 9th?

21 A. I was at home April the 9th.

22 Q. On what street?

23 A. I was at Daniel Drive -- 503 Daniel Drive
24 at that time.

25 Q. Is that Lavan Howard's address at that

1 time?

2 A. Yes, sir.

3 MR. HARTLEY: That's all. You're
4 going to be asked some more questions from the
5 District Attorney.

6 CROSS-EXAMINATION

7 BY MS. PERKINS:

8 Q. Kourtney, you've robbed somebody before,
9 haven't you?

10 A. Yes, ma'am. I've been convicted of a
11 robbery case before about nine years ago.

12 Q. In '94?

13 A. Yes, ma'am.

14 Q. You've been convicted of a possession of
15 marijuana; is that right?

16 A. Yes, ma'am.

17 Q. You said you don't know -- you said you
18 don't know -- you don't know Jamar Brown?

19 A. No, ma'am.

20 Q. Never been around him before?

21 A. No, ma'am.

22 Q. So back on March 30th of 2002, you
23 weren't around Jamar Brown?

24 A. No, ma'am.

25 Q. And you didn't have twists in your hair

1 at that time?

2 A. No, ma'am.

3 Q.

4 MS. PERKINS: Judge, may I approach
5 briefly for a second?

6 THE COURT: Yes.

7 MS. PERKINS: Mr. Hartley?

8 (Bench conference was held.)

9 Q. Was anybody else at home with you on the
10 night of the offense --

11 A. April the 9th?

12 Q. -- besides your kids. Yeah.

13 A. No. I always baby-sit alone. I always
14 got me a six-pack of beer and I stayed at the house
15 and watched movies and baby-sitted them.

16 Q. So you always get a six-pack of beer and
17 stay at home and watch movies with your kids?

18 A. Yes, ma'am.

19 Q. And you do that every night that you
20 baby-sit them?

21 A. Every Tuesday, Thursday, and Saturday.

22 Q. So there's nobody to corroborate your
23 testimony that you were at home with your kids on
24 that night really except for you; is that right?

25 A. No one besides Lavan Howard.

1 Q. Who wasn't there, was she?

2 A. No. She was at work at the time. But I
3 wouldn't leave those kids there by their self.

4 Q. But there's nobody else to testify about
5 that except for you; is that right?

6 A. Yes, ma'am.

7 MS. PERKINS: Nothing further,
8 Judge.

9 MR. HARTLEY: Nothing further, Your
10 Honor.

11 THE WITNESS: I would like --

12 MR. HARTLEY: You can step down.

13 THE COURT: Why don't you go up and
14 see --

15 (Brief second was taken.)

16 REDIRECT EXAMINATION

17 BY MR. HARTLEY:

18 Q. Is there something that you -- that is
19 important about a date of April 18th?

20 A. Yes. I heard the District Attorney say
21 that April the 18th, this incident took place.
22 This incident did not take place on April the 18th.
23 The warrant -- in my discovery, the warrant and who
24 ever else went, that's when I supposedly became a
25 suspect on April the 18th, you know, that's when my

1 photo, I guess, was pointed out by somebody I don't
2 even know. But this incident happened on April the
3 9th, you know. That's -- I just wanted to make
4 that clear, because I don't know how things were
5 going all about April the 18th, and I was
6 charged --

7 THE COURT: Now, wait --

8 Q. Is that clear? That was a good answer.

9 MR. HARTLEY: That's all I wanted to
10 ask you. Thank you for giving us that. Now, you
11 can step down.

12 (Witness excused.)

13 THE COURT: Do you have any other
14 witnesses, Mr. Hartley?

15 MR. HARTLEY: No, Your Honor.

16 THE COURT: Do you have -- at this
17 time, do you rest?

18 MR. HARTLEY: Yes, Judge.

19 MS. PERKINS: I do have one rebuttal
20 witness, Judge.

21 THE COURT: Okay.

22 MS. PERKINS: The State calls
23 Harold Franklin.

24 THE COURT: If you'll come right
25 over there and raise your right hand.

1 HAROLD FRANKLIN

2 The witness, having first been duly sworn or
3 affirmed to speak the truth, the whole truth, and
4 nothing but the truth, testified as follows:

5 DIRECT EXAMINATION

6 BY MS. PERKINS:

7 Q. Tell us your --

8 THE COURT: You might slip up to
9 that microphone.

10 MS. PERKINS: I'll scoot it up to
11 you. Talk right in there, okay, good and loud.

12 Q. Tell us your name, please.

13 A. Harold Franklin.

14 Q. Mr. Franklin, where are you from -- from
15 Montgomery?

16 A. Yes.

17 Q. Okay. This is going to go quickly. Do
18 you know this defendant right here?

19 A. Yes.

20 Q. What's his name?

21 A. Kourtney Greenwood.

22 Q. Back in March of 2002, did you see him at
23 that time?

24 A. Yes.

25 Q. Where were you when you saw him -- let's

1 go to March 30th of 2002. Okay?

2 A. All right.

3 Q. Do you remember that day?

4 A. Yes.

5 Q. Where were you when you saw him?

6 A. In Trenholm Court in front of my
7 apartment.

8 Q. Were you outside or in your car or
9 where --

10 A. I was outside in my car --

11 Q. Okay.

12 A. -- chilling and listening to the music.

13 Q. Was he with somebody at that time?

14 A. Yeah.

15 Q. Who was he with?

16 A. Jamar Brown.

17 Q. Do you know Jamar Brown?

18 A. Not right off.

19 Q. But you know of him?

20 A. Yes.

21 Q. Okay. And he was with Jamar Brown at
22 that point when you saw him?

23 A. Yes.

24 Q. Did you see his hair at that point?

25 A. Yes.

1 Q. You did see his hair?

2 A. Yes.

3 Q. How was his hair looking?

4 A. It was twisted.

5 Q. It was twisted?

6 A. Yes, it was twisted.

7 Q. Was it fully twisted?

8 A. Yes.

9 MS. PERKINS: Nothing further,
10 Judge.

11 CROSS-EXAMINATION

12 BY MR. HARTLEY:

13 Q. Mr. Franklin, you say you know this man?

14 A. I don't know him. I don't know him, but
15 I just, you know, seen him.

16 Q. So you don't really know him?

17 A. Huh-uh.

18 Q. You don't really know him, do you?

19 A. I know -- I know I know his name.

20 Q. You know his name?

21 A. Yeah.

22 Q. So you don't know him? You've never had
23 a conversation with him, have you?

24 A. Huh-uh.

25 MS. PERKINS: Objection, Judge. May

1 I approach?

2 THE COURT: No. Overruled. Go
3 ahead.

4 MR. HARTLEY: Okay.

5 MS. PERKINS: Judge, I think --

6 Q. What was the date that you said you saw
7 him with -- and he was with Jamar Brown or
8 whomever, what date was that?

9 A. March 30th.

10 Q. Okay. Prior to March 30th, did you know
11 who he was?

12 A. Yes.

13 Q. You had spoken to him before?

14 A. No.

15 Q. Okay. So you didn't know who he was?

16 A. I don't know him personally.

17 Q. That's what I mean. You don't know him.
18 So the answer you gave when you said I know him was
19 really not true, was it?

20 A. Well --

21 Q. You don't know him like I know --

22 THE COURT: Let him get through with
23 his answer.

24 MR. HARTLEY: All right.

25 A. I'm saying, I know of him. But I don't